

TEXAS PARKS AND WILDLIFE

Texas Parks and Wildlife Department
Purchasing and Contracting C-1
4200 Smith School Road
Austin, Texas 78744

REQUEST FOR PROPOSALS

MARINE SERVICES TO OBTAIN, CLEAN, AND REEF A SHIP AT HIGH ISLAND SHIP REEF (HI-A-424)

RFP 802-16-32893

NIGP Class/Items: 959-65

Event	Date/Time
RFP Issue Date:	December 10, 2015
Questions Due:	December 28, 2015; 5:00 PM CT
HUB Notification Deadline:	January 13, 2016
Proposal Due Date:	January 28, 2016; 2:00 PM CT

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ATTENTION: It is the responsibility of interested parties to periodically check the Electronic State Business Daily (ESBD) website for updates to this solicitation prior to submitting a response. The Respondent's failure to periodically check the ESBD will in no way release the selected Contractor from "addenda or additional information" resulting in additional cost to meet the requirements of the RFP.

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MARINE SERVICES TO OBTAIN, CLEAN, AND REEF A SHIP AT HIGH ISLAND SHIP ARTIFICIAL REEF (HI-A-424)

SECTION I GENERAL INFORMATION AND STATEMENT OF WORK

1. PROJECT SUMMARY AND BACKGROUND

Texas Parks and Wildlife Department (TPWD) requires a contractor to provide marine services to obtain a ship, clean it to Texas Parks and Wildlife Artificial Reef Program standards, and deploy it in an up-right position on the ocean bottom at the High Island Ship Reef (OCS block High Island 424 or HI-A-424). HI-A-424 is a Texas state artificial reef site, located 57 nautical miles east from the Galveston jetties (Attachment 1). The Contractor shall be responsible for acquiring a ship at Contractor's expense (to include purchasing one if needed) that meets the specifications listed in Section 7 below. Ships with lengths of at least 350ft or greater with a high profile will score higher. The ship must not have a list of more than 25 degrees. A sink plan, contingency plan to right the ship (within a 25 degree list), and detailed cleanup plan must accompany this RFP. All cleanup and reefing shall be completed by December 15, 2016. The deployment zone and ship orientation within the reef will be designated by TPWD and discussed with the winning bidder. A performance bond and payment bond may be required for this project (Section 20).

2. SOLICITATION METHOD AND INTENT

The Request for Proposal (RFP) solicitation method allows qualified respondents to submit a written proposal addressing pricing, qualifications, experience, locations, availability, approach and other factors that will be employed to ensure successful accomplishment of the requirements set forth herein. TPWD will review, compare and evaluate responses based on the criteria and weights identified in this RFP.

3. CONTRACT TERM

This contract shall commence on the Date of Award and continue through December 15, 2016, unless sooner terminated under the terms of this contract. Prior to December 15, 2016 or upon written acceptance of the Contractor, this contract may be renewed, at the sole discretion of TPWD for a period not to exceed six months.

4. ADDING NEW SERVICES TO THE CONTRACT AFTER AWARD

Following the contract award, additional services of the same general category that could have been encompassed in the award of this contract, and that are not already on the contract, may be added. A formal written request will be sent to successful Respondents to quote on the proposed additional products. Respondent shall submit proposals to the TPWD as instructed. All prices are subject to negotiation with the Best and Final Offer ("BAFO"). TPWD may accept or reject any or all proposals, and may issue a separate solicitation for the products after rejecting some or all of the RFPs. The products covered under this provision shall conform to the specifications as outlined in the request. An Amendment to Contract will be issued for any additional services added to contract.

5. QUALIFICATIONS AND EXPERIENCE

5.1. Contractor shall illustrate recent experience in successfully completing the reefing of ships and work of a similar nature and scope as the work described in this RFP. Experience shall be within the last three (3) years.

5.2. Contractor shall include experience which demonstrates their ability to reef a ship of similar characteristics as stated in Section 7. Reefing must have been completed within the last ten (10) years.

5.3. Contractor shall submit the following:

5.3.1. A minimum of two (2) references for work of similar nature and shall include contact names and phone numbers of the contractor's customers and a description of the work.

5.3.2. If available, contractor shall submit a detailed description of ship along with photos and schematics.

5.3.3. References that cannot be verified either by phone or by email within ten (10) working days after bid submission deadline will **not** count toward meeting this requirement.

6. STATEMENT OF WORK

This bid is for turnkey services which include obtaining a ship (with length of 350ft or larger) at the Contractor's expense, Contractor performing all cleanup operations, Contractor disposal of all cleanup debris and hazardous materials, Contractor documentation of all cleanup to include manifests of materials removed (i.e. debris, asbestos, PCBs, hydrocarbons, etc.), Contractor towing ship to HI-A-424 reef site (Attachment 1 and 2), and Contractor placing the ship on ocean bottom in an **UP-RIGHT Position**.

UP-RIGHT is defined as the Ship sitting evenly on its keel with a list of no more than 25 degrees (to be determined by TPWD staff).

The clearance from ocean surface to height of ship shall not be shallower than sixty (60) feet. A consultant provided by TPWD will be designated as the project consultant and will perform all cleanup inspections of the ship and collect all manifests. Contractor shall modify the ship for divers as described below. If the ship does not lie in an up-right position on the ocean floor, the Contractor **MUST** pull it into an up-right position at the Contractor's expense.

Contractor shall be responsible for determining the best method for cleaning and reefing the ship so that it lays in an up-right position. All arrangements for berthing/dock space, cleanup yard, labor and equipment required to clean, tow, and reef the ship, including the rental or lease of cranes, tow boats, lift barge or other equipment and the hiring of labor such as stevedores or crane operators, shall be the responsibility of the Contractor.

7. SCOPE OF WORK AND SPECIFICATIONS

7.1. Contractor shall include a complete detailed description of ship with photos. Detail shall include length, height, tonnage, type, age, construction, copy of title showing current owner with no liens, statement from Contractor on seaworthiness of ship, and detailed estimate of hazardous materials to be removed. Ships over 350 feet and have a height of approximately 76 feet after modifications, are preferred and may score higher during the scoring process.

7.2. Contractor shall meet with TPWD Artificial Reef Program staff at TPWD offices in Austin, Texas (or alternate site or telephone conference to be determined) to discuss all aspects of the agreement **prior** to beginning any work. The date, time and location of the meeting will be set by mutual agreement following award of the Contract.

7.3. Contractor shall remove all debris and other cleanup items as detailed in Section 12.0 *Cleanup and Modification of Ship* below. All hazardous wastes and cleanup of other wastes shall be documented by manifests showing the amounts and proper disposition of these wastes. A TPWD

Consultant will inspect the vessel during periods of cleanup and will obtain copies of the manifests. A detailed cleanup plan per Item 9.6.21 must be presented to TPWD for approval prior to commencement of work.

- 7.4. Contractor shall modify the ship for diving as cited in Section 12.0 *Cleanup and Modification of Ship* below. Modifications will be dependent on type of vessel obtained but shall include, but not limited to, the removal of diver hazards as determined by TPWD staff, to include Contractor cutting holes into ship for flooding during sinking event, Contractor removal of all glass and wiring, and Contractor welding doors open. Final modification requirements will be discussed with the Contractor on award of bid.
- 7.5. Contractor shall be responsible for locating a proper facility to clean and modify vessel.
- 7.6. Contractor shall design sink plan that shall place the ship on its keel in an up-right position on the ocean floor within a deployment zone inside the HI-A-424 reef to be determined by TPWD. The use of explosives is acceptable but will require more oversight and approval of federal agencies and applicable TPWD program staff. See *Description of Reef Site* in Section 11.0 below.
- 7.7. **IMPORTANT:** Contractor shall design a contingency plan of how the Contractor will pull the ship into an up-right position if necessary (the cost of this mitigation of the project, if necessary, shall be totally paid for by the Contractor and not added to any cost of this project).
- 7.8. Contractor shall tow the ship to the designated deployment zone and reef the ship as stated in 7.6 above.
- 7.9. Contractor shall verify that the depth of the ship and its highest point meets USCG clearance restrictions of no shallower than sixty (60) feet and that the list of the ship is not greater than twenty five (25) degrees. Contractor shall also verify that ship is safe for diving (e.g. no doors/hatches have broken free or any other obstacles could cause diver-related injuries). (TPWD divers will also verify these conditions and if any discrepancies are noted, Contractor shall be responsible for mitigation). If explosives are used during sinking, Contractor shall perform a post-reefing safety inspection and verify that no unexploded ordinance remains on ship.
- 7.10. Contractor shall perform a post-sinking side-scan survey of the vessel by a professional marine surveyor showing all sides, bow and stern of the ship. Acquisition of the survey data may require repositioning of the Contractor vessel and/or making several passes over the deployment site. The cost and time required to obtain the survey data shall be included in the Contractor's price. See *Survey and Certification Requirements* in Paragraph No. 14 below.
- 7.11. Deliver to TPWD Artificial Reef Program all required deliverables no later than 5:00 P.M., **December 15, 2016**. See *Deliverables* below.

8. CONTRACTOR REQUIREMENTS

- 8.1. TPWD will award the bid based on the best available ship and reefing proposal to maximize the diving experience and marine habitat, and which will result in the ship laying in an up-right (Keel on bottom) orientation on ocean bottom with a list of no greater than 25 degrees. **(THIS MEANS THAT THE PROPOSAL WILL NOT INVOLVE SIMPLY SINKING A SHIP).**
- 8.2. Contractor shall be responsible for: all labor, equipment, supplies, fees and permits as may be required; all costs incurred due to delays of any type not directly attributable to the actions of TPWD, including weather, mechanical failure and equipment malfunction; all mobilization and demobilization expenses; and will arrange for a loading area as needed.
- 8.3. No later than ten (10) working days prior to intent to tow the vessel to the site, Contractor shall get pre-tow inspection and written authorization from the United States Coast Guard (USCG).

Contractor must send authorization documentation to TPWD prior to towing the vessel to the reef site.

- 8.4 No later than ten (10) working days prior to intent to tow the vessel to the site, Contractor shall provide to TPWD a general cleanliness inspection from the USCG to verify that:

8.4.1 No hydrocarbons remain that would leave a sheen on the ocean surface;

8.4.2 All debris has been removed;

8.4.3 Contractor must send inspection report to TPWD and its consultant.

- 8.5 Contractor shall at submission of proposal, provide USCG documentation of seaworthiness of vessel, equipment, and load that shall be used in this project.

- 8.6 Contractor shall monitor the sea and weather conditions, and select a departure date that, in the Contractor's best judgment, will provide favorable conditions for conducting the work. TPWD will coordinate the marine turtle and mammal watch with National Marine Fisheries Service, which will direct the timing of the Contractor's on-site sinking operation. The Contractor shall notify TPWD not less than twenty-four (24) hours prior to a previously announced departure date if such departure is cancelled.

- 8.7 Contractor shall follow the Specifications and follow relevant Occupational Safety and Health Administration (OSHA) and other safety rules and conduct the work in a safe manner.

- 8.8 Contractor shall transfer title or other document of ownership of ship to be reefed to TPWD, showing it to be free and clear of any liens once ship is safely reefed at HI-A-424. If title is not available, then TPWD will produce a Material Donation Agreement in which the Contractor and TPWD shall sign/notarize to affect the transfer.

9. CONTRACTOR RESPONSIBILITIES

- 9.1. To ensure accurate placement of the ship within the designated location at the TPWD HI-A-424 reef site, Contractor shall equip the vessel with a fully operational "differential" global positioning system (DGPS.) The Contractor must have a marine surveyor/hydrographer present during the deployment operation to verify the deployment position and provide for a detailed side-scan survey of vessel after reefing. The Contractor shall provide vessel services as may be required by the Surveyor.

- 9.2. Contractor shall accommodate up to two (2) TPWD staff observers on board the support tugboat during the reefing operation, if requested by TPWD. The TPWD observers are not authorized to alter the terms of this Agreement. Contractor shall notify TPWD, one week prior to commencement of reefing operations and 48 hours prior to departure for the reef site.

- 9.3. To ensure that the strict clearance (60ft of clear water over reef ship) requirements are met, Contractor shall be responsible to provide divers to measure the height of the shallowest point of the ship and note its orientation (degree angle of list, if any) after deployment is completed. TPWD divers may accompany the contractor's divers.

- 9.4. Contractor shall be responsible for the employment of trained and technically qualified personnel to perform the requirements of this contract. In addition, the Contractor shall be responsible for employing and maintaining the personnel, organizational and administrative control necessary to ensure the performance of personnel meets or exceeds all contract specification requirements. All Contractor personnel and subcontractors will follow all OSHA requirements during this project.

- 9.5. At its expense, Contractor shall:

- 9.5.1. Obtain any necessary licenses, permits, photos;
 - 9.5.2. Provide competent superintendence;
 - 9.5.3. Take precautions necessary to protect person or property against injury or damage, and be responsible for such injury or damages.
- 9.6. In addition to the aforementioned responsibilities, Contractor agrees to comply with all requirements specified in the United States Army Corps of Engineers (USACE) permit, environmental consultations and reviews related to the Magnuson-Stevens Fishery Conservation and Management Act, Marine Mammal Protection Act, Rivers and Harbors Act, Endangered Species Act, National Historic Preservation Act, and the National Environmental Policy Act. The contractor agrees to implement the following conservation measures and best management practices (BMPs), as specified in the Record of Decision for the Deepwater Horizon Oil Spill: Final Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement, which include measures identified during the consultations noted above.
- 9.6.1. The ship shall be sunk within the permitted area, and avoid any identified hard outcrops, uneven surfaces, or geologic features.
 - 9.6.2. All hazardous materials handled during ship cleaning will be contained and appropriate barriers will be in place to ensure the protection of adjacent water resources from potential spills and leaks.
 - 9.6.3. To reduce the release of greenhouse gas (GHG) during project implementation, idling construction equipment shall be shut down when feasible; staging areas shall be located as close to construction sites as practicable to minimize driving distances; using the proper size of equipment for the job to maximize energy efficiency will be encouraged as well as the use of alternative fuels for generators at construction sites, where practicable.
 - 9.6.4. All existing artificial reef materials and other hard substrates shall be avoided during deployment of the ship.
 - 9.6.5. Project implementation shall adhere to the National Marine Fisheries Service (NMFS) Sea Turtle and Smalltooth Sawfish Construction Conditions (2006), The Texas Artificial Reef Fishery Management Plan (TPWD 1990), the Guidelines for Marine Artificial Reef Materials (Atlantic and Gulf States Marine Fisheries Commissions 2004), the National Artificial Reef Plan (as Amended): Guidelines for Siting, Construction, Development, and Assessment of Artificial Reefs (NMFS2007), and the National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs (EPA and MARAD 2006).
 - 9.6.6. The final sinking plan shall be coordinated with TPWD and NMFS to minimize underwater impacts from explosives. Any explosive charges employed shall be the smallest needed (lowest possible net explosive weight per detonation) to puncture pre-cut plates in order to sink the ship. Detonations of explosives along the ship shall be in a rapid series rather than simultaneous in order to minimize impacts to marine fauna. Devices shall be used to create a delay between sections of the ship to minimize the high frequency energy from the charges that passes through the hull into the water.
 - 9.6.7. All conditions identified in the USACE permit (SWG-2013-00249) shall be adhered to.
 - 9.6.8. If the ship that is proposed for acquisition for this project is a historical resource, it shall be evaluated for its cultural significance and suitability for this project before it is used.

MARAD conducts historical reviews on all ships in its inventory before disposal, which should satisfy all requirements under Section 106 of the National Historic Preservation Act.

- 9.6.9. The project shall maintain the minimum clearance (60 feet) above the artificial reef (ship) as required by the USCG to prevent an impediment to boat traffic.
- 9.6.10. Prior to the arrival of the ship, TPWD shall visually inspect the ship yard facility and meet with its managers to ensure environmental and worker safety plans are in place.
- 9.6.11. Pollution booms and any other required pollution response equipment shall be staged at the facility, ready for deployment to guard against any pollution discharge.
- 9.6.12. A Spill Prevention and Emergency Response Plan shall be developed and approved.
- 9.6.13. In the event of a discharge of oil or release of hazardous substances, the release shall be reported to the National Response Center (800-424-8802) and Texas Emergency Oil Spill and Hazardous Substance Reporting line (800-832-8224) as required and all state and federal regulations shall be followed during the cleanup.
- 9.6.14. A security system to protect the ship and workers shall be provided to TPWD for approval. The security shall have significant controls such as having a guarded entrance for ingress and egress of all personnel and materials, and 24-hour guard presence on the premises.
- 9.6.15. A ship remediation plan to address cleanup and removal of hazardous materials from the ship shall be submitted to federal and state agencies for review prior to beginning work.
- 9.6.16. The hull shall be modified to ensure safety for divers and meet requirements, inspections, and modifications stipulated by TPWD, EPA and the USCG. Hull modifications shall be made to meet depth clearance requirements established for the permitted reef site and to allow limited exploration of the ship by scuba divers while maintaining diver safety. Hull modifications shall also be made to create the best opportunity for the ship to sink in an upright position on the Gulf bottom. Any hull modifications required shall be designed and executed to retain the ship's original external characteristics as much as possible.
- 9.6.17. The ship shall be completely surveyed to identify worker hazards (e.g., unsafe deck and structure hazards, hazardous substances, unsafe air quality). Areas of hazard shall be marked, repaired and/or removed. Workers shall maintain all work areas by removing unneeded items. They shall also set up areas for temporary storage of containerized waste and spill kits. A general area shall be designated for an on-board office, decontamination trailer, supply containers, and waste containers. Confined spaces such as tanks shall not be entered until atmospheric readings have been obtained and a confined space program is approved by a marine chemist or other qualified person.
- 9.6.18. Personal protective equipment shall be required for all ship cleaning and explosives personnel and authorized access zones will be established at the perimeter during ship cleaning and explosives use.
- 9.6.19. All occupational and marine safety regulations and laws shall be followed to ensure safety of all workers and monitors.
- 9.6.20. An explosives plan and associated safety procedures shall be developed, reviewed, and approved by government agencies before project implementation.
- 9.6.21. A safety zone shall be established around the reef site to exclude all ship and submarine traffic not participating in the sinking action. The specific radius shall be determined by the

USCG on site. Any traffic within this radius shall be warned to alter course or will be escorted from the site. An immediate "STOP WORK" shall be ordered if any unauthorized craft entered the safety zone and could not be contacted. Work shall not continue until the safety zone was clear of unauthorized vessels.

- 9.6.22. Weather that supports the ability to conduct final sinking preparation activities is required for maximum safety for all workers and observers involved in the activity. Operations are most affected by wind, visibility, and ocean surface conditions. Higher winds typically increase wave height and create "white cap" conditions, both of which compromise safety of personnel participating in and/or observing the sinking action. Weather conditions shall be monitored closely to provide the largest good weather window for all activities needed to tow, moor, conduct final on-sight hull modifications, and sink the ship. Weather conditions considered marginal or poor will cause a "stop work" order.

10. TPWD RESPONSIBILITIES

- 10.1. A "protected species observer" protocols which involves monitoring the zone of influence and stopping work if any federally protected species are observed shall be developed with the final sinking plan and implemented during deployment.
- 10.2. Aerial observations for protected species shall begin prior to the planned sink time.
- 10.3. If protected species observers see Sargassum rafts over ten (10) feet in diameter or any protected species including sea turtles or marine mammals, the scheduled detonation of explosives shall be postponed for at least 30 minutes or until the impact zone is free from any condition that may cause injury to a protected species. Detonation of scare charges to intentionally harass sea turtles or marine mammals into leaving a project area is prohibited.
- 10.4. Upon detonation, the area shall continue to be surveyed to monitor for adversely impacted protected species.
- 10.5. The sinking event shall not be conducted if the area cannot be adequately monitored or if weather conditions do not permit full visibility of the area. Detonation of explosives shall occur no sooner than one (1) hour following sunrise and no later than one (1) hour before sunset.
- 10.6. If any previously unknown historic or archeological remains are discovered while completing the project, the USACE, Galveston District, shall be notified immediately.
- 10.7. The reef area shall be added to the NOAA navigation charts and a lighted, navigational buoy will be in the permitted reef area.

11. DESCRIPTION OF SHIP

- 11.1. The Contractor shall obtain a ship with the following characteristics:
- 11.1.1. Type: Cargo / Tanker / Oil Drilling / Military
 - 11.1.2. Length: Minimum length of 350 feet (larger preferred).
 - 11.1.3. Height: No taller than 76 feet (superstructure/masts can be modified as necessary but the objective is to leave as much structure as possible).
 - 11.1.4. Gross Tons: Approximately 500+ Tons
- 11.2. Contractor shall transfer title of ship to TPWD, showing it to be clear of any liens immediately after reefing. If title is not available, TPWD will produce a Material Donation Agreement in which the

Contractor and TPWD shall sign/notarize to affect the transfer. Title transfer or agreement must be completed before any payment is made.

- 11.3. Best proposed ship structure / complexity (as determined by TPWD staff) will merit a higher score in the evaluation process. **NO** barges, tugboats, or shrimp boats will be accepted.
- 11.4. Contractor shall guarantee that the ship is free of contaminates, debris, floatables, and any hazardous materials after cleanup by the Contractor as described in Section 13.
- 11.5. Proposals shall include detailed photos of ship, general plan of cleanup and hull modifications, sinking plan to ensure ship is in an up-right orientation on ocean bottom, and a general contingency plan to pull the ship into an up-right position if Ship lists more than 25 degrees. **This will be the basis for the price, which constitutes 30% of the final score.**

12. DESCRIPTION OF REEF SITE

REEF SITE LOCATION: The Ship Reef, a component of TPWD Artificial Reef Program, is located approximately 56 nautical miles from Galveston jetties, Texas within the boundary of OCS Block High Island 424 (HI-A-424). The reef site is an 80 acre rectangle of 1867-ft by 1867-ft.

The boundaries of the Ship Reef (HI-A-424) site are listed below and shown on Exhibit C.

NAD83 Datum	Latitude	Longitude
Permitted Center	28° 26' 38.43"	094° 17' 06.16"
NW Corner	28° 26' 48.04"	094° 17' 16.18"
NE Corner	28° 26' 47.29"	094° 16' 55.29"
SE Corner	28° 26' 28.83"	094° 16' 56.13"
SW Corner	28° 26' 29.57"	094° 17' 17.03"

The Deployment Zone for the Ship will be designated by TPWD Artificial Reef Program upon award but will generally be near the center of the 80ac reef site within the Ship Reef (HI-A-424) (see Attachment 1). The water depth at the reef is approximately 136-ft Mean Lower Low Water (MLLW) and depth may vary in places. The profile (height off bottom) cannot exceed 76ft. **The Ship must meet the US Coast Guard's 60-ft MLLW clearance requirement for this permitted reef site.** The height of the ship should be as close to 76ft as possible so that the diving objectives are met (i.e. begin dive of ship at 60 foot depth).

13. CLEANUP AND MODIFICATION OF SHIP

- 13.1. TPWD will regularly inspect ship during cleanup operations to ensure all requirements as stated in this section are met. All requirements must be completed prior to TPWD giving approval for Contractor to proceed to reefing phase. Contractor shall provide access to the ship to TPWD personnel during regular business hours or otherwise as agreed to by TPWD and Contractor on an ad-hoc, as-needed basis.
- 13.2. Contractor shall provide copies of all manifests documenting removal and disposition of all materials removed from Ship including, but not limited to, debris, floatables, hydrocarbons, asbestos, PCBs, etc.
- 13.3. Contractor shall follow *National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs*, May 2006, U.S. Environmental Protection Agency and U.S. Maritime Administration, EPA842-B-06-002. The Contractor shall read and follow all guidelines in this document. The document can be located on-line.

- 13.4. Contractor shall accomplish the specific goals of cleanup including, but not limited to the following:
- 13.4.1. Remove all loose paint.
 - 13.4.2. Remove or repair any asbestos containing materials (ACM). (Asbestos is not a hazard in the marine environment but is a carcinogenic when released into the atmosphere or when humans come in contact with it. All work removing ACM must be done under OSHA guidelines by trained and/or licensed personnel).
 - 13.4.3. Remove all glass and electrical wiring.
 - 13.4.4. All machinery, nonferrous materials of salvageable quality and pollutants are to be removed or cleaned and left in place.
 - 13.4.5. The following waste streams are to be tested, abated and remediated for hazardous substances:
 - 13.4.5.1. Oils, Fuels and Grease
 - 13.4.5.2. Chromate Ballast Water
 - 13.4.5.3. Waste Water Collection
 - 13.4.5.4. Asbestos
 - 13.4.5.5. Polychlorinated Biphenyls including:
 - 13.4.5.5.1. All liquid PCB-containing components
 - 13.4.5.5.2. All solid PCB-containing materials
 - 13.4.5.5.3. All paint and/or painted surfaces which tested positive for PCB's in concentrations ≥ 50 ppm
 - 13.4.5.6. Paints including:
 - 13.4.5.6.1. All loose paint from walls, bulkheads, decks and hull
 - 13.4.5.6.2. Sweep and dispose of loose paint on deck surfaces
 - 13.4.5.7. Other Hazardous Materials:
 - 13.4.5.7.1. Batteries
 - 13.4.5.7.2. Refrigerants
 - 13.4.5.7.3. Halons
 - 13.4.5.7.4. Mercury
 - 13.4.5.7.5. Antifreeze
 - 13.4.5.7.6. Coolants
 - 13.4.5.7.7. Fire extinguishing agents
 - 13.4.5.7.8. Black and gray water from tanks and piping
 - 13.4.5.8. Solids/Debris/Floatables (Any loose items and materials which may float or be transported into the water column during sinking including, but not limited to):
 - 13.4.5.8.1. Trash
 - 13.4.5.8.2. Wood scraps
 - 13.4.5.8.3. Light Bulbs
 - 13.4.5.8.4. Floor tiles
 - 13.4.5.8.5. Carpet and padding
 - 13.4.5.8.6. A/C Equipment
 - 13.4.5.8.7. Furniture

- 13.4.5.8.8. Ductwork
- 13.4.5.8.9. Wood paneling
- 13.4.5.8.10. Ceiling tiles
- 13.4.5.8.11. Plate glass
- 13.4.5.8.12. Machinery
- 13.4.5.8.13. Items left from remediation

13.4.6. Contractor shall discuss hull modifications with TPWD upon award of contract but will generally include the following service/actions accomplished by Contractor:

- 13.4.6.1. Holes shall be made in the side of the ship to allow for air and water circulation, limited diver access, and to aid in flooding during sinking.
- 13.4.6.2. The upper deck area shall be made diver-safe, with doors/hatches either sealed shut or welded open. All hazardous conditions such as removal of glass and sharp objects that could injure divers shall be removed or modified so as not to create a hazard.
- 13.4.6.3. The Contractor shall consider diver-interest when performing hull modifications to include preserving any unique items aboard the Ship such as ship's equipment, port holes, ship's wheel, masts, etc. TPWD will consult with Contractor on what items can be feasibly left in place.

13.5. TPWD, Project Consultant, and the U.S. Coast Guard will perform a final inspection for pollutants and debris before the Ship is towed to the reef site.

14. DEPLOYMENT SPECIFICATIONS

- 14.1. Contractor shall be responsible for placing the Ship within the defined deployment zone as defined by TPWD upon contract award.
- 14.2. TPWD reserves the right to alter, by written notification, the location of the deployment zone within the reef site up to 48 hours prior to the Contractor's departure for the reef site, but in any case, the Contractor shall place the Ship within the boundaries of the High Island Ship Artificial Reef (HI-A-424).
- 14.3. Contractor shall secure a TPWD ten (10)-foot yellow spar buoy (or similar) with light and chain onto Ship before reefing. The buoy, chain, and buoy components will be supplied by TPWD at no cost to Contractor.
- 14.4. The Contractor shall place the Ship on the bottom so that no portion of the Ship exceeds the authorized 60-ft MLLW clearance at the reef site.
- 14.5. Divers provided by the Contractor shall inspect the Ship after sinking and report its orientation, list or angle off bottom, depth of the highest part of the Ship, and overall diver safety, noting any hazards to divers found. (Any hazards shall be removed and mitigated by Contractor at Contractor's expense).
- 14.6. The Contractor shall discuss/review with TPWD ARP staff its plan for reefing the Ship prior to departing for the reef site. TPWD reserves the right to accept or reject any such plan due to safety concerns. If such plans are rejected, the Contractor shall submit an alternate, acceptable plan. If the Contractor fails to produce an acceptable deployment plan, the Contractor will be found in default under terms and conditions of this Agreement. The Contractor shall not consider his plan accepted until notified in writing (letter or email) by Dale Shively, TPWD ARP Leader (or his designee).

15. SURVEY AND CERTIFICATION REQUIREMENTS

To ensure accurate placement of the Ship inside the reef site and within the designated deployment zone, TPWD requires that a marine surveyor/hydrographer be present (at contractor's expense) during the deployment operation(s) with a fully operational "differential" global positioning system installed on board the tow vessel or another vessel nearby. The marine surveyor must be present during all placement operations to ensure the vessel is positioned over the coordinates defining the deployment zone; and the surveyor must record the location of the ship (complete with side scan survey) at the reef site.

16. DELIVERABLES

All deliverables are due at the TPWD's office not later than 5:00 p.m. December 15, 2016. Deliverables consist of the following:

- 16.1. Confirmation that all hazardous materials removed from the ship during cleanup have been documented by manifests turned in to the Project Consultant and that a record of proper disposal of these hazards is evident. Written confirmation will be obtained from Contractor(s).
- 16.2. Delivery of ship title or Material Donation Agreement between TPWD and Contractor after successful reefing.
- 16.3. Reefed ship as per the Agreement.
- 16.4. Survey report including side-scan images and data files.

17. CONDITIONS AFFECTING THE WORK

Contractor shall be responsible for securing a ship and locating a remediation facility/yard where cleanup and hull modification can occur. Bidders are urged and expected to evaluate a ship of its choosing meeting the minimum specifications within this RFP and take such other steps as may be reasonably necessary to ascertain the nature and location of the work and the general and local conditions which can affect the work or cost thereof. Failure to do so will not relieve bidders from the responsibility for estimating properly the difficulty or cost of successfully completing the contract or constitute grounds for a claim after award. The TPWD will assume no responsibility for any understanding or representation concerning conditions made by any of its employees, agents, or consultants prior to the execution of the contract unless included in the contract documents.

18. CONTRACT ADMINISTRATION

Administration of the contract is a joint responsibility of the TPWD Coastal Fisheries Division and TPWD Purchasing. Upon issuance of a contract, TPWD will designate an individual who will serve as the contract manager and point-of-contact between the agency and the Contractor. The contract manager does not have any express or implied authority to vary the terms of the contract, amend the contract in any way or waive strict performance of the terms or conditions of the contract. This individual's contract management and contract administration responsibilities include, but are not limited to:

- 18.1. Monitoring the Contractor's progress and performance and ensuring services conform to established specification requirements.
- 18.2. Managing the financial aspects of the contract including approval of payments.
- 18.3. Meeting with the Contractor to schedule service, and as needed to review progress, discuss problems, and consider necessary action.

- 18.4. Identifying a breach of contract by assessing the difference between contract performance and non-performance.
- 18.5. Other areas as identified by the State of Texas Contract Management Guide, latest edition.

19. PAYMENT

Contractor will be paid for the services performed as follows:

- 19.1. **40%** Payment will be made upon final approval of cleaning and hull modifications; **50%** payment will be made upon successful reefing and a **10%** retainer will be paid when ship is verified as being at proper location in up-right position, side-scan survey is completed and submitted to TPWD, and title to ship is transferred to TPWD.
- 19.2. Contractor shall submit a properly executed invoice to Texas Parks & Wildlife Department, Accounts Payable, 4200 Smith School Road, Austin, Texas 78744.
- 19.3. Payments are subject to the terms and conditions established in the Texas Prompt Payment Act. Payment normally will be made to the Contractor within 30 days after receipt, at TPWD Austin Headquarters, of a properly prepared invoice or the receipt of and the acceptance of services ordered, whichever is later. State agencies are required by state law to pay properly submitted invoices within thirty days or the Contractor will be paid a late payment fee established by law.
- 19.4. Electronic payment may be available through some ordering entities. Contact Accounts Payable at 512-389-4833 for additional information.
- 19.5. INVOICE:
Invoice shall be submitted to the receiving entity in compliance with the following procedures:
 - 19.5.1. The invoice shall show name of Contractor exactly as shown on the contract, the Texas Payee Identification Number (PIN), and the correct "Remit to:" address.
 - 19.5.2. Invoice shall show name of receiving entity.
 - 19.5.3. Invoice shall show contract number.
 - 19.5.4. Invoice shall include a description of each item. Items shall be shown in numerical order and must correspond with the item numbers shown on the Bid Schedule.
 - 19.5.5. Quantity, unit and price of each item shall be shown. All prices shall be extended on the invoice.
 - 19.5.6. Total all extensions on the invoice.
- 19.6. CASH DISCOUNTS: Cash discounts offered by the Contractor **will not** be a factor in the bid evaluation. Owner reserves the right to either accept or not accept the cash discount.
 - 19.6.1. Discount, if applicable, shall be stated, extended and deducted to arrive at a NET TOTAL for invoice.
- 19.7. Payments for services purchased with state appropriated funds will be made through state warrants issued by the Comptroller of Public Accounts. Payments by qualified ordering entities will be made through the entities local payment system.

20. INSURANCE

Contractor shall procure and maintain during the entire period of their performance under this contract the following minimum insurance. Note: The required coverage is to be with companies licensed in the state of Texas, with an "A" rating from A.M. Best, and authorized to provide the corresponding coverage.

Type of Insurance		Each Occurrence/Aggregate
Workers Compensation		Statutory
Employer's Liability Bodily Injury by Accident Bodily Injury by Disease Bodily Injury by Disease		\$1,000,000 Ea. Accident \$1,000,000 Ea. Employee \$1,000,000 Policy Limit
Commercial General Liability General Aggregate Applies Per Project	Marine Commercial Liability with MCL IN-REM endorsement; with waiver of subrogation rights; any watercraft exclusions shall be deleted.	\$1,000,000 Each Occurrence \$2,000,000 Aggregate \$5,000 Medical Expense each person \$2,000,000 Products Completed Operations \$1,000,000 Personal Injury & Advertising Liability \$50,000 Damage to Premises rented to you
Automobile Liability All Owned, Hired and Non-Owned Vehicles		\$500,000 Combined Single Limit
US Longshore & Harbor (USL&H)		Statutory
Maritime Employers Liability (MEL) , also referred to as Jones Act Insurance	With OCS/GOM endorsement	\$1,000,000 limit
Pollution Liability		\$5,000,000 Combined Single Limit
Vessel Pollution		\$1,000,000 limit
Protection and Indemnity (P&I)		\$1,000,000 limit
Note: Workers' Compensation is required by an "employer" which is defined as "a person who employs one or more employees." If respondent has no employees, such insurance is not required. If respondent claims they have no employees, TPWD will require a statement to that fact.		

Policy must contain the following:

- 20.1. An endorsement for officers and employees of any and all agencies of the State of Texas.
- 20.2. Insurance carrier shall notify TPWD 30 days prior to any renewal, cancelation and/or termination of the insurance policy related to these services and contract.
- 20.3. Insurance carrier shall provide TPWD with a certificate of insurance and assure that the awarded contract number is referenced below the insured information block.

- 20.4. Not later than ten (10) days following Notice of Award, the Contractor shall furnish to TPWD, for their approval, a certificate of insurance as proof that the required insurance is in full force and effect. The certificate of insurance shall be sent to Purchasing & Contracting, Texas Parks & Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; or may be faxed to 512-389-4677.

21. PERFORMANCE BOND REQUIREMENT

- 21.1. If the total contract price exceeds \$25,000.00, a Payment Bond must be furnished by the successful Contractor. If the total contract price exceeds \$100,000.00 a Payment Bond and a Performance Bond must be furnished by the successful Contractor. All bonds submitted shall be the original form bearing original signatures and seal.

21.1.1. Construction Bonds: Contractor is required to tender to Owner, prior to commencing the Work, performance and payment bonds, as required by Tex. Gov't Code, Chapter 2253. On Construction Manager-at-Risk and Design-Build Projects the Owner shall require a security bond, as described in Subsection 21.1.3 below.

21.1.2. Bond Requirements: Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to Owner, on Owner's form, and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than ten (10) percent of the surety's capital and surplus, Owner may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than ten (10) percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to Owner.

21.1.2.1. A Performance bond is required if the Contract Sum is in excess of \$100,000. The performance bond is solely for the protection of Owner. The performance bond is to be for the Contract Sum to guarantee the faithful performance of the Work in accordance with the Contract Documents. The form of the bond shall be approved by the Office of the Attorney General of Texas. The performance bond shall be effective through Contractor's warranty period.

21.1.2.2. A Payment bond is required if the Contract price is in excess of \$25,000. The payment bond is to be for the Contract Sum and is payable to Owner solely for the protection and use of payment bond beneficiaries. The form of the bond shall be approved by the Office of the Attorney General of Texas.

21.1.3. Security Bond: The security bond provides protection to Owner if Contractor presents an acceptable guaranteed maximum price ("GMP") to Owner and 1) fails to execute the GMP; or 2) fails to deliver the required payment and performance bonds within the time period stated below.

21.1.4. When Bonds are Due:

21.1.4.1. Security bonds are due within ten (10) days of signing a Construction Manager-at-Risk or Design-Build Contract, unless stated otherwise in the contract documents.

21.1.4.2. Payment and performance bonds are due within ten (10) days of Contractor's receipt of a fully executed GMP on a Construction Manager-at-Risk project or the Contract Sum for a Design-Build project, or within ten (10) days of Contractor's receipt of a fully executed Contract on competitively bid or competitive sealed proposal projects. TPWD requires the Contractor to

submit Payment and Performance bonds no later than ten (10) days after issuance of Notice of Intent to Award on competitively bid or competitive sealed proposal projects.

- 21.1.5. Power of Attorney: Each bond shall be accompanied by a valid power of attorney (issued by the surety company and attached, signed and sealed with the corporate embossed seal, to the bond) authorizing the attorney-in-fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.
 - 21.1.6. Bond Indemnification: The process of requiring and accepting bonds and making claims there under shall be conducted in compliance with Tex. Gov't Code, Chapter 2253. IF FOR ANY REASON A STATUTORY PAYMENT OR PERFORMANCE BOND IS NOT HONORED BY THE SURETY, CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD OWNER HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.
 - 21.1.7. Furnishing Bond Information. Owner shall furnish certified copies of the payment bond and the related Contract to any qualified person seeking copies who complies with Tex. Gov't Code § 2253.026.
 - 21.1.8. Claims on Payment Bonds. Claims on payment bonds must be sent directly to Contractor and his surety in accordance with Tex. Gov't Code § 2253.041. All payment bond claimants are cautioned that no lien exists on the funds unpaid to Contractor on such Contract, and that reliance on notices sent to Owner may result in loss of their rights against Contractor and/or his surety. Owner is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.
 - 21.1.9. Payment Claims when Payment Bond not required. The rights of Subcontractors regarding payment are governed by Tex. Prop. Code §§ 53.231 – 53.239 when the value of the Contract between Owner and Contractor is less than \$25,000.00. These provisions set out the requirements for filing a valid lien on funds unpaid to Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claim.
 - 21.1.10. Sureties. A surety shall be listed on the US Department of the Treasury's Listing of Approved Sureties maintained by the Bureau of Financial Management Service (FMS), www.fms.treas.gov/c570, stating companies holding Certificates of Authority as acceptable sureties on Federal bonds and acceptable reinsuring companies (FMS Circular 570).
- 21.2. Respondent shall submit with response submission, a letter from a legally authorized bonding company, stating the Respondent's eligibility to be bonded for this project if awarded the contract.**

22. OWNER-FURNISHED PROPERTY

TPWD will furnish no material, labor, equipment, or facilities unless otherwise referenced in this solicitation.

23. SUBCONTRACTING

Refer to *Section III – General Terms and Conditions, Paragraph 43 – Subcontractors*.

24. HUB SUBCONTRACTING PLAN

24.1. RESPONDENT MUST COMPLETE, SHOW A GOOD FAITH EFFORT, SIGN AND SUBMIT A HUB SUBCONTRACTING PLAN (**EXHIBIT B**) WITH THEIR PROPOSAL AND IN ACCORDANCE WITH THE FOLLOWING INSTRUCTIONS. **FAILURE TO COMPLETE AND SUBMIT THE HUB SUBCONTRACTING PLAN (HSP) WITH THE RFO RESPONSE WILL RESULT IN DISQUALIFICATION OF THE RFO FROM CONSIDERATION.**

24.2. In accordance with Texas Gov't Code §2161.252 and 34 Texas Administrative Code §20.14, TPWD has determined that subcontracting opportunities are probable under this contract, and that the contract value may exceed \$100,000. This probability is based on HUB availability, HUB utilization, geographic location of the project, the contractual scope of work, or other factors. TPWD estimates the value of this contract to be greater than \$100,000 and further sets the HUB subcontracting goal at **21.1** % of the contract's value.

24.3. A list of HUB subcontractors that may be able to perform the work identified as areas with potential subcontracting opportunities is attached to the HUB Subcontracting Plan forms. Respondents may also access a list of HUB subcontractors who may be able to perform this work by searching the Centralized Master Bidder's List (CMBL), as maintained by the Texas Comptroller of Public Accounts. The main CMBL search page is located here: <https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>.

24.4. A few minority and women trade organizations and development centers are listed below that you may contact to announce your opportunity (as specified in the HSP, Method B). For a more complete list visit: <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>

Women's Business Enterprise Alliance 9800 Northwest Freeway, Ste. 120 Houston, TX 77092 (713) 681-9232 office (713) 681-9242 fax bids@wbea-texas.org email www.wbea-texas.org website	Texas Association of African American Chambers of Commerce 807 Brazos St., Ste. 710 Austin, TX 78701 (512) 535-5610 office procurement@taaacc.org email www.taaacc.org website	Texas Association of Mexican American Chambers of Commerce P.O. Box 41780 Austin, TX 78704 (512) 444-5727 office panton@tamacc.org email www.tamacc.org website
Golden Triangle Minority Business Council P.O. Box 5064 Beaumont, TX 77726-5064 (409) 962-8530 office (409) 722-5402 fax hatcher.beverly@gtmbc.com email www.gtmbc.com website	Asian Contractor Association 4201 Ed Bluestein Blvd. #2105 Austin, TX 78721 (512) 926-5400 office (512) 926-5410 fax asiancontractor@gmail.com email www.acta-austin.com website	Women's Business Council - Southwest 2201 N. Collins, Ste. 158 Arlington, TX 76011 (817) 299-0566 office (817) 299-0949 fax lwilliams@wbcsouthwest.org email www.wbcsouthwest.org website

24.5. **Respondents are highly encouraged to contact TPWD HUB Administration at 512-389-4784 or hub@tpwd.texas.gov** for assistance with completing the HSP forms, obtaining HUB lists if web access is not possible, and/or further explanation of the TPWD HUB program.

SECTION II PROPOSAL INFORMATION

1. SCHEDULE OF EVENTS

TPWD intends to proceed according to the following schedule. These dates represent a tentative schedule of events. TPWD reserves the right to change the dates in the schedule of events above upon written notification to prospective Respondents through a posting on the Electronic State Business Daily as an Addendum.

Event	Date/Time
RFP Issue Date:	December 10, 2015
Questions Due:	December 28, 2015; 2:00 PM CT
HUB Notification Deadline:	January 13, 2016 (may be applicable if subcontracting)
Answers Posted on ESBD:	December 31, 2015
Proposal Due Date:	January 28, 2016; 2:00 PM CT
Expected Contract Award Date:	February 17, 2016

2. INQUIRIES

- 2.1. **CONTACT:** All requests, questions, or other communications about this Solicitation shall be made in writing to TPWD's Purchasing & Contracting Department, addressed to the following person:

Renee Serrano, CTPM, CTCM, Senior Purchaser
Texas Parks & Wildlife Department
4200 Smith School Road, Austin, Texas 78744

Phone 512-389-4811
Fax 512-389-4677
renee.serrano@tpwd.texas.gov

- 2.2. **CLARIFICATIONS:** TPWD will allow written requests for clarification of this Solicitation. Questions may be faxed or e-mailed to the point-of-contact listed in *Section II, Subsection 2.1*. Questions should be submitted in the following format: a) Reference the Solicitation number; b) Reference the Section number, Page number, Paragraph number, and Text of passage being questioned; and c) Question.
- 2.3. **DEADLINE FOR SUBMISSION OF QUESTIONS:** To provide TPWD with sufficient time to adequately prepare responses to vendor inquiries, all questions must be submitted by the deadline specified in *Section II, Subsection 1*.
- 2.4. **ANSWERS TO QUESTIONS:** The target date for answering questions is within three business days after deadline for questions. Official answers will be posted as an addendum to this solicitation, on the Electronic State Business Daily at <http://esbd.cpa.state.tx.us>. Respondent names will be removed from questions in the responses released. TPWD reserves the right to amend answers prior to the proposal submission deadline. If respondents do not have Internet access, copies may be obtained through the point of contact listed above. **Note:** *It is the responsibility of interested parties to periodically check the ESBD for updates to the procurement prior to submitting a proposal. Respondent's failure to periodically check the Electronic State Business Daily (ESBD) will in no way release the selected vendor from "addenda or additional information" resulting in additional costs to meet the RFP requirements.*
- 2.5. **PROHIBITED COMMUNICATIONS:** Upon issuance of this solicitation, TPWD, its representative(s), or partners will not answer questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s), except for the written

inquires described in *Section II, Subsection 2.2* above. Attempts to ask questions by phone or in person will not be allowed or recognized as valid. **Failure to observe this restriction may disqualify respondent.** Respondent shall rely only on written statements issued through or by TPWD's purchasing staff. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this solicitation.

3. PROPOSAL CONTENT

Below is a summary of required and requested information. Proposals submitted without this information will be evaluated accordingly. TWPDP reserves the right, in its sole judgment and discretion, to waive minor technicalities and errors in the best interest of the state.

3.1. GENERAL RESPONSE FORMAT:

Respondents shall submit **one (1) original** proposal signed in ink (marked Original). In addition, Respondents should submit **one (1) copy** of the proposal. Submissions should be on 8-1/2 x 11 inch paper and tab-indexed corresponding to the sections/exhibits listed below. *(Plastic spine-bound or wire-bound submittals are highly discouraged.)*

3.2. REQUIRED RESPONSE CONTENT:

Respondent **MUST** include the following documentation in their response submission. ***Failure to submit with response will result in disqualification of the proposal.***

3.2.1. **Exhibit A – Execution of Proposal:** Respondent must submit original signed, dated and completed *Exhibit A*.

3.2.2. **Exhibit B – HUB Subcontracting Plan:** Respondent must comply with and submit *Exhibit B*.

3.2.3. **Exhibit C – Price Sheet:** Respondents must submit *Exhibit C*.

3.2.4. **Exhibit D – Equipment List:** Respondents must submit completed Exhibit D (or reasonable facsimile).

3.3. ADDITIONAL RESPONSE CONTENT:

Respondent should include the following additional documentation in their response submission. ***Failure to submit this additional documentation may result in disqualification of the proposal.***

3.3.1. **Exhibit E – Past Projects with Corresponding References:** Submit requested information tabbed *Exhibit E*.

3.3.2. **Exhibit F – Technical Proposal:** Submit requested information tabbed *Exhibit F*.

3.3.3. **Exhibit G – Performance Bond:** Awarded vendor must submit *Exhibit G* upon contract award.

3.3.4. **Exhibit H – Payment Bond:** Awarded vendor must submit *Exhibit H* upon contract award.

3.3.5. **Addendums:** Respondent to acknowledge receipt of any addendums generated as part of this solicitation. The respondents should include the signed and dated addendum(s) with their response submission.

4. PROPOSAL SUBMISSION

- 4.1. All proposals shall be received and time stamped by TPWD prior to 2:00 PM Central Time on the date specified in *Section II, Subsection 1* and the place specified in *Section II, Subsection 5*. Late proposals will not be considered under any circumstance and will be returned unopened.
- 4.2. Proposals should be placed in a sealed envelope/package and correctly identified with RFP number, submittal deadline/opening date and time. It is the Respondent's responsibility to appropriately mark and deliver the proposal to TPWD by the specified date.
- 4.3. Receipt of all addenda to this RFP should be acknowledged by returning a signed copy of each addendum to the response.
- 4.4. Respondents to this RFP are responsible for all costs of proposal preparation.
- 4.5. Proposals shall be submitted to TPWD Headquarters, Purchasing & Contracting, as noted in *Section II, Subsection 5* below.
- 4.6. ***Telephone, email and facsimile proposals are NOT an acceptable response to an RFP.*** All submitted proposals become the property of TPWD after the RFP submittal due date/ deadline. Responses submitted shall constitute an offer for a period of ninety (90) days or until selection is made by TPWD, whichever is earlier.
- 4.7. When Proposals are opened, only the names of the Respondents who submitted proposals will be read. Prices and terms will not be divulged until after contract award.

5. DELIVERY OF PROPOSALS

Proposals shall be submitted to TPWD by one of the following methods:

U.S. Postal Service	Overnight/Express Mail	Hand Deliver
Texas Parks and Wildlife Dept. Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744	TPWD – Mail Room Attn: Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744 Hours – 8:00 AM to 5:00 PM	TPWD – 1 st Floor Security Desk Attn: Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744 Hours – 8:00 AM to 5:00 PM
NOTE: Proposals must be date stamped in Purchasing & Contracting prior to the due date and time.		

6. EVALUATION AND AWARD

- 6.1. A contract will be awarded to the responsible respondent(s) who submits the proposal determined to be the best value to the State and who meet all requirements included in this RFP.
- 6.2. Cash discounts offered by the respondent will NOT be a factor in proposal evaluation.
- 6.3. Proposals may be withdrawn by written notice at any time prior to award. An e-mail to the purchaser name identified in *Section II, Subsection 2* above will be acceptable as a written notice for withdrawn. No proposals will be returned after award.
- 6.4. Step 1 – Administrative Review by Purchasing: Only a complete response with the listed required submittal documents will be considered. Failure to meet the minimum qualifications and submit the required documents will result in a response being declared non-responsive. Proposals that do not conform to the instructions included in this RFP may be rejected by TPWD. TPWD reserves the right to reject any or all proposals and to waive informalities and

minor irregularities in proposals received. No proposal received in TPWD Purchasing & Contracting after the exact date and time specified as the deadline for responses will be considered.

- 6.5. Step 2 – Initial Evaluation: A TPWD evaluation committee will evaluate and score each response based on established criteria. *Contractors that provide more services will not necessarily have an advantage over ones that provide very specialized services.* Responses will be evaluated according to the respondent's ability to best satisfy TPWD requirements. Respondent's submission is evaluated and scored on a weighted system to determine the best value as follows:

Evaluation Criteria	Weight
Compensation and Fees (based on <i>Exhibit C</i>)	40%
Ship Description and Sinking Plan (based on <i>Exhibit E</i>)	30%
Experience and References (based on <i>Exhibit D</i>)	30%
Total	100%

- 6.6. Step 3 – Short List: At TPWD's sole discretion, a short list may be developed. Then, TPWD may check references. References may include past performance evaluations. References will be scored on a pass/fail basis. Any negative responses received may be grounds for disqualification of the proposal.

- 6.6.1. Respondents may be asked to provide examples of similar work to verify ability to successfully complete the project.

- 6.7. Step 4 – Discussion, Proposal Clarifications and/or Best and Final Offer (BAFO): The evaluation committee will determine if discussions and/or negotiations and Best and Final Offers are necessary. Award of a contract may be made without discussions or Best and Final Offers, if in the best interest of the state.

- 6.7.1. Discussions: The evaluation committee may determine that a presentation to discuss the technical proposal is necessary to clarify or verify a written proposal.

- 6.7.2. BAFO: A request for a Best and Final Offer is at the sole discretion of TPWD and will be requested in writing. If requested, respondent(s) shall submit a final price and any added value. If more than one respondent reaches this level, the negotiated terms, references, BAFO and added values will be the considered in the award. TPWD will make the final determination on the best value.

- 6.7.3. The evaluation committee will evaluate the finalists and make a recommendation for award.

- 6.8. AWARD: Award will be made based on the proposal that presents the best value to TPWD in performance of the service. TPWD will be the sole judge of best value. (Refer to *Section III, Item 3.6* for Best Value criteria.) TPWD reserves the right to negotiate price for specific future projects as they become available.

- 6.9. A respondent's past performance will be measured based upon pass/fail criteria in compliance with applicable provisions of §§2155.074, 2155.075, 2156.007, 2157.003, and 2157.125, Gov't Code. Respondents may fail this selection criterion for any of the following conditions:

- 6.9.1. A score of less than 90% in the Vendor Performance System, currently under a Corrective Action Plan through the Comptroller of Public Accounts (CPA), having repeated negative Vendor Performance Reports for the same reason having purchase orders that have been cancelled in the previous 12 months non-performance (i.e. late

delivery, etc.). Contractor performance information is located on the CPA web site at:
http://www.window.state.tx.us/procurement/prog/contractor_performance/

- 6.9.2. CPA may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.108), CPA may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Any such investigations shall be at the sole discretion of CPA, and any negative findings, as determined by CPA, may result in non-award to the Respondent.

GENERAL TERMS AND CONDITIONS

Revised December 2014

(ITEMS BELOW APPLY TO AND BECOME A PART OF THE CONTRACT)

Any Contract awarded as a result of this solicitation will contain the general terms and conditions listed below in this Section. Subcontractors are also obliged to comply with these provisions.

1. DEFINITIONS: As used throughout this solicitation, the following terms have the meaning set forth below. All other terms have the meaning set forth in Webster's II New College Dictionary.

- 1.1. Contractor: The individual, corporation, company, partnership, firm, or organization that has to furnish the materials and has to perform the work as stated in the solicitation.
- 1.2. ESBD: The Electronic State Business Daily, which is available online at <http://esbd.cpa.state.tx.us/>.
- 1.3. Gov't Code: The Texas Government Code.
- 1.4. Owner: Texas Parks and Wildlife Department, an agency of the State of Texas.
- 1.5. Party/Parties: Either the TPWD and Respondent separately or collectively.
- 1.6. Respondent: Any person or vendor who submits a Bid/Proposal in response to this solicitation.
- 1.7. Services: Includes the use of labor, materials, facilities, equipment, and any other need that is necessary or incidental to the successful completion of the contract.
- 1.8. Subcontractor: Any supplier, distributor, Contractor, person, or firm furnishing to the Contractor, materials or services necessary or incidental to the performance of the contract between TPWD and Contractor.
- 1.9. TAC: The Texas Administrative Code, which is the publication for administrative rules.
- 1.10. TPWD: Texas Parks and Wildlife Department acting on behalf of the State of Texas.

2. SPECIFICATIONS:

- 2.1. The goods/services provided shall be in accordance with the purchase specifications herein. TPWD will decide the answers to all questions that may arise as to the interpretation of the specifications and the quality, or acceptability of goods/services provided. TPWD will decide the rate of progress of the work and the acceptable fulfillment of the goods/service on the part of the Contractor.
- 2.2. Catalogs, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids/Proposals on brands of like nature and quality will be considered unless advertised under §2155.067, Texas Gov't Code. If offering other than references, response should show manufacturer, brand or trade name, and other description of product offered. If other than brand(s) specified is offered, illustrations and complete description of product offered are requested to be made part of the bid. Failure to take exception to specifications or reference data will require bidder to furnish specified brand names, numbers, etc.
- 2.3. Unless otherwise specified, items shall be new and unused and of current production.
- 2.4. Samples, when requested, must be furnished free of expense to the State. If not destroyed in examination, they will be returned to the respondent, on request, at respondent's expense. Each sample should be marked with respondent's name and address, and requisition number. Do not enclose in or attach response submission to sample.
- 2.5. The State will not be bound by any oral statement or representation contrary to the written specifications of this Solicitation.
- 2.6. Manufacturer's standard warranty shall apply unless otherwise stated in the solicitation.

3. **AWARD OF A PURCHASE ORDER:** Standard Purchase Order Terms and Conditions apply. If a conflict exists between the standard purchase order terms and conditions and specific language in this solicitation, the language in the solicitation shall prevail.
- 3.1. A response to a solicitation is an offer to contract with TPWD based on the terms, conditions and specifications contained in the solicitation. Responses do not become contracts unless and until they are accepted through an authorized TPWD designee by issuance of a purchase order.
- 3.2. This procurement will be conducted in accordance with the State Purchasing Act, Title 10, Subtitle D, Chapters 2151 through 2177, of the Texas Gov't Code (TGC) and TPWD rules. Any contract resulting from this procurement shall consist of one (1) document. This document will contain all of the rights and duties of the parties extracted from the relevant terms and conditions of: this solicitation (including its attachments, exhibits, supplements, and addenda); the successful Contractor's response; any TPWD request for a Best and Final Offer; and any successful Contractor's Best and Final Offer, if applicable.
- 3.3. Best Value – TPWD will be the sole judge of best value. Award will be based on Best Value criteria and may include, but is not limited to:
- 3.3.1. Best meets the goals and objectives of the solicitation as stated above.
- 3.3.2. Best meets the quality and reliability of the proposed services.
- 3.3.3. Effect of the proposed solution on agency productivity.
- 3.3.4. Provides the most customer focused solution that will best meet the needs of the public.
- 3.3.5. Experience in successfully providing services in this solicitation.
- 3.3.6. Vendor Performance: In accordance with Texas Gov't Code, 2155.074 and 2155.75, vendor performance may be used as a factor in the award.
4. **UNIT PRICES:** Respondents must price per unit shown. Unit prices shall govern in the event of extension errors.
5. **FREIGHT:** Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
6. **DELIVERY:**
- 6.1. Show number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates respondent to deliver in 14 calendar days. Unrealistic delivery promises may cause solicitation to be disregarded.
- 6.2. If delay is foreseen, Contractor shall give written notice to the TPWD. Contractor must keep the TPWD advised at all times of status of order.
- 6.3. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the TPWD to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting Contractor.
- 6.4. Substitutions: No substitutions permitted without written approval of TPWD.
- 6.5. Delivery shall be made during normal working hours only, unless prior approval has been obtained from ordering agency. Normal working hours are 8:00 AM until 5:00 PM Monday through Friday except State and National holidays.
7. **TESTING AND INSPECTION:**

- 7.1. TPWD may test and inspect goods and services purchased under the Contract to ensure compliance with the specifications of this solicitation and the Contract. TPWD may also test and inspect goods and services before they are purchased under the Contract. Authorized TPWD personnel shall have access to the Respondent's place of business for the purpose of inspecting the goods. To the extent practical, TPWD inspections will not disrupt the Respondent's daily operations. Tests shall be performed on samples submitted with the Bid/Proposal or on samples taken from regular shipments. All costs of testing and inspection shall be borne by the Respondent. In the event the goods tested fail to meet or exceed all conditions and requirements of the solicitation and Contract, the goods will be rejected in whole or in part, at the State's option, and returned to the Respondent or held for disposition at the Respondent's expense. Latent defects may result in cancellation of the Contract at no expense to the state.
- 7.2. If material fails to meet specifications, the Respondent will be notified by fax / mail or e-mail. The Respondent will have ten (10) working days after receipt of the notification to remove the rejected material from state property. Material will be removed at the Respondent's expense. Material not removed in the allotted time period will be disposed by TPWD. The Respondent will be charged for all disposable expenses conducted by TPWD.
8. **CHANGES:** TPWD may at any time, by a written order, make changes within the general scope of this contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the services under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or time of performance or both and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change, provided, however, that TPWD, if it decides that the facts justify such action, may receive and act upon such claims asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Dispute Resolution."
9. **INVOICING AND PAYMENT:**
- 9.1. In order to receive payment under the Contract, the Respondent must submit an original invoice to TPWD, which will be designated in the purchase order as the "Bill To" address. To be a proper invoice that may be accepted and paid, the invoice must include the following information and/or attachments: (1) Name and address of the Contractor. (2) The Contractor's Texas Identification Number (TIN). (3) The Contractor's invoice remittance address. (4) The purchase order number authorizing the delivery of products or services. (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).
- 9.2. Disputed Invoices: As stated above, the Respondent will receive notice of an error in an invoice submitted for payment by not later than the 21st day after the date the invoice was received by the TPWD. If an invoice dispute is resolved in favor of the Respondent, the Respondent is entitled to receive interest on the unpaid balance of the invoice, beginning on the date the invoice became overdue, pursuant to §2251.021, Gov't Code. If a dispute is resolved in favor of the TPWD, the Respondent shall submit a corrected invoice that must be paid in accordance with §2251.021. The unpaid balance accrues interest if the corrected invoice is not paid by the appropriate date.

9.3. Time and Manner of Payment: Pursuant to Texas Gov't Code Chapter 2251, Payment by TPWD is overdue on the 31st day after the later of: (1) the date the TPWD receives the goods under the Contract; (2) the date the performance of the service under the contract is completed; or (3) the date the TPWD receives the invoice for the goods or service. Payment by a political subdivision Customer whose governing body meets only once a month or less frequently is overdue on the 46th day after the later event of: (1) the date the Customer receives the goods under the Contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Customer receives the invoice for the goods or service.

10. **PATENTS, TRADEMARKS, OR COPYRIGHTS:** Respondent agrees to defend and indemnify the TPWD and State from claims involving infringement or violation of patents, trademarks, copyrights, trade secrets, or other proprietary rights, arising out of the TPWD's or the State's use of any good or service provided by the respondent as a result of this solicitation.

11. **COPYRIGHTS AND PUBLICATIONS:** The Respondent understands and agrees that, where activities supported by the Contract produce original books, manuals, films, or other original material (hereinafter referred to as "the works"), the Respondent may copyright the works subject to the reservation by the TPWD of a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state and/or political subdivision purposes:

- the copyright in the works developed under the Contract, and
- any rights of copyright to which the Respondent purchases ownership with funding from the Contract.

The Respondent may publish, at its expense, the results of Contract performance with prior TPWD review and approval of that publication. Any publication (written, visual, or sound) shall include acknowledgment of the support received from the TPWD. One (1) copy of any such publication must be provided to the TPWD. The TPWD reserves the right to require additional copies before or after the initial review. All copies shall be provided free of charge to the TPWD.

12. **PROHIBITION ON LOBBYING:** The Respondent shall comply with the provisions of a federal law known generally as the Lobbying Disclosure Act, 2 U.S.C. §1601 et seq. By submitting a Bid/Proposal, the Respondent certifies that it shall not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence any officer or employee of any federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. §1352. It also certifies that the Respondent shall disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award by completing and submitting Standard Form LLL.

13. **ANTI-TRUST AND ASSIGNMENT OF CLAIMS:** The Contractor may publish, at its expense, the results of Contract performance with prior TPWD review and approval of that publication. Any publication (written, visual, or sound) shall include acknowledgment of the support received from the TPWD and Customers. One (1) copy of any such publication must be provided to the TPWD. TPWD reserves the right to require additional copies before or after the initial review. All copies shall be provided free of charge to the TPWD.

14. **DEBTS AND DELINQUENCIES:** As required by §2252.903, Gov't Code, the Respondent agrees that any payments due under the Contract shall be directly applied towards eliminating any debt or

delinquency including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.

15. DISPUTE RESOLUTION:

- 15.1. The dispute resolution process provided for in Chapter 2260 of Texas Gov't Code shall be used by TPWD and the Respondent to resolve all disputes arising under this contract. The Contractor shall comply with such rules, as revised from time to time.
- 15.2. The dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, to attempt to resolve any claim for breach of contract asserted by the Contractor under the Contract. If the Contractor's claim for breach of Contract cannot be resolved by the Parties in the ordinary course of business, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Contractor shall submit written notice, as required by Chapter 2260. The notice shall also be given to the individual identified in the Contract for receipt of notices. Compliance by the Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- 15.3. The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of Contract by TPWD if the Parties are unable to resolve their disputes as described above.
- 15.4. Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Contract by TPWD nor any other conduct of any representative of TPWD relating to the Contract shall be considered a waiver of sovereign immunity to suit.
- 15.5. For all other specific breach of contract claims or disputes under the Contract, TPWD and the Contractor shall first attempt to resolve them through direct discussions in a spirit of mutual cooperation. If the Parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by TPWD and the Contractor within fifteen (15) days after written notice by one of them demanding mediation under this Section. The Contractor shall pay all costs of the mediation unless TPWD, in its sole good faith discretion, approves its payment of all or part of such costs. By mutual agreement, TPWD and the Contractor may use a non-binding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that TPWD and the Contractor shall, in good faith, utilize mediation or another non-binding dispute resolution process before pursuing litigation. TPWD's participation in, or the results of, any mediation or other non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by TPWD of (1) any rights, privileges, defenses, remedies or immunities available to TPWD as an agency of the State of Texas or otherwise available to TPWD; (2) TPWD's termination rights; or (3) other termination provisions or expiration dates of the Contract.
- 15.6. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by TPWD, the Contractor shall continue performance and shall not be excused from performance during the period any breach of contract claim or dispute is pending under either of the above processes; however, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of §2251.051, Gov't Code, and such suspension of performance is expressly applicable and authorized under that law.

- 16. FRAUD, WASTE, AND ABUSE:** By submitting a Response to this Solicitation, the Respondent represents and warrants that it has read and understood and shall comply with CPA's Anti-Fraud Policy, found at: <http://www.window.state.tx.us/ssv/ethics.html>, as such Policy currently reads and as it is amended throughout the term of the Contract.

- 17. NAME CHANGES AND SALES:** If the Contractor changes its name or is sold to another entity, it must provide written notification to TPWD. The Contractor, in its notice, shall describe the

circumstances of the name change or sale, state its new name, provide the new Tax Identification Number, and describe how the change will impact its ability to perform the Contract. If the change entails personnel changes for personnel performing the responsibilities of the Contract for the Contractor, the Contractor shall identify the new personnel and provide resumes to TPWD, if resumes were originally required by the Solicitation. TPWD may request other information about the change and its impact on the Contract and the Contractor shall supply the requested information within five (5) working days of receipt of the request.

TPWD may terminate the Contract due to a sale of or change to the Respondent that materially alters the Respondent's ability to perform under the Contract. The TPWD has the sole discretion to determine if termination is appropriate.

18. CONTRACTOR RESPONSIBILITIES:

- 18.1. Contractor agrees to comply with all terms and conditions contained in this solicitation and resulting Contract.
- 18.2. Contractor guarantees services offered will meet or exceed the written specifications identified in this solicitation.
- 18.3. Permits: Contractor shall be responsible, at the Contractor's expense, for obtaining any and all permits or licenses required by city, county, state, or federal rules, regulations, law, or codes that pertain to the Contract.
- 18.4. Electrical Items: All electrical items provided by the Respondent to TPWD under the Contract must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC, or NEMA.
- 18.5. Executive Head: Pursuant to §669.003, Gov't Code, the TPWD may not enter into a contract with a person who employs a current or former Executive Head of a state agency until four years have passed since that person was the executive head of the state agency. By submitting a Bid/Proposal, the Respondent certifies that it does not employ any person who was the Executive Head of a state agency in the past four years. If section 669.003 applies, respondent shall complete the following information in order for the response submission to be evaluated:

Name of former executive: _____
Name of state agency: _____
Date of separation from state agency: _____
Position with respondent: _____
Date of employment with respondent: _____

- 18.6. Contractor agrees to take precautions necessary to protect person or property against injury or damage, and be responsible for such injury or damage.
- 18.7. Contractor agrees to comply with Federal law or State Worker's Compensation laws which are applicable to the work required or performed under this contract and to pay or cause to be paid all compensation, medical or hospital bills which may become due or payable thereunder, and to protect and indemnify TPWD from and against any and all liability by reason of injury to employees of Contractor or subcontractor.
- 18.8. Contractor shall provide all labor, equipment and materials (unless otherwise stated herein) necessary to furnish the goods or perform the service. All employees of the Contractor shall be a minimum of 17 years of age and experienced in the type of work to be performed. Only the Contractor and its employees will be allowed on state property during working hours.

19. **TERMINATED CONTRACTS:** By submitting a Response, the Respondent certifies that it has not had a contract terminated or been denied the renewal of any contract for non-compliance with policies or regulations of any state or federally funded program within the past five (5) years nor is it currently prohibited from contracting with a governmental agency. If the Respondent does have such a terminated contract, the Respondent shall identify each and provide an explanation for the termination.
20. **INDEPENDENT CONTRACTOR:** The Contract shall not render the Respondent an employee, officer, or agent of the TPWD for any purpose. The Respondent is and shall remain an independent contractor in relationship to the TPWD. The TPWD shall not be responsible for withholding taxes from payments made under the Contract. The Respondent shall have no claim against the TPWD for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
21. **ABANDONMENT OR DEFAULT:** If Contractor is found to be in default under any provision of this Contract, TPWD may cancel the Contract without notice and either re-solicit or award the contract to the next best responsive and responsible Respondent. In the event of abandonment or default, Contractor will be responsible for paying damages to TPWD including but not limited to re-procurement costs, and any consequential damages to the State of Texas or TPWD resulting from Contractor's non-performance. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work is significantly changed.
22. **RIGHT TO AUDIT / RECORDS RETENTION:** Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, TPWD or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including providing all records requested. Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the work of this Contract. Contractor and the subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TPWD and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor. Contractor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State's work as requested. Contractor's failure to comply with this Section shall constitute a material breach of this Contract and shall authorize TPWD and the State of Texas to immediately assess appropriate damages for such failure. Contractor acknowledges and understands that the acceptance of funds under this Contract shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract

it awards. Furthermore, under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

23. **FORCE MAJEURE:** TPWD may grant relief from performance of the contract if the Contractor is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the Contractor. The burden of proof for the need of such relief shall rest upon the Contractor. To obtain release based on force majeure, the Contractor shall file a written request with TPWD.
24. **PROPRIETARY OR CONFIDENTIAL INFORMATION:** Responses may include proprietary or confidential information. TPWD will take reasonable precautions in protecting such information provided that it is clearly identified as proprietary or confidential on the page on which it appears.
25. **RIGHT TO DATA, DOCUMENTS AND COMPUTER SOFTWARE (STATE OWNERSHIP):** Any software, research, reports studies, data, photographs, negatives or other documents, drawings or materials prepared by Contractor in the performance of its obligations under this contract shall be the exclusive property of the State of Texas and all such materials shall be delivered to the State by the Contractor upon completion, termination, or cancellation of this contract. Contractor may, at its own expense, keep copies of all its writings for its personal files. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of Contractor's obligations under this contract without the prior written consent of the State; provided, however, that Contractor shall be allowed to use non-confidential materials for writing samples in pursuit of the work. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.
26. **PUBLIC DISCLOSURE / NEWS RELEASES:** No public disclosures or news releases pertaining to this solicitation shall be made without prior written approval of TPWD.
27. **CONFIDENTIALITY AND SECURITY:** The Respondent should not receive any sensitive or confidential information under the Contract. Any information the Respondent compiles or creates as a result of the Contract must be maintained and protected in accordance with any federal, state, or local laws and regulations that apply. The Respondent shall establish a method to secure the confidentiality of records and other information relating to clients in accordance with applicable federal and state laws, rules, and regulations. The obligations of the Contractor under this Security and Confidentiality Article shall survive this Contract and shall be included in all subcontracts.
28. **TERMINATION:** This contract shall terminate upon full performance of all requirements contained in this contract, unless otherwise extended or renewed as provided in accordance with the contract terms and conditions.
 - 28.1. **Termination for Convenience:** TPWD reserve the right to terminate the contract at any time, in whole or in part, without cost or penalty, by providing 30 calendar days' advance written notice if TPWD determines that such termination is in the best interest of the state. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TPWD will be liable for payments limited only to the portion of work authorized by TPWD in writing and completed prior to the effective date of cancellation, provided that TPWD shall not be liable for any work performed that is not acceptable to TPWD and/or does not meet

contract requirements. All work products produced by the Contractor and paid for by TPWD shall become the property of TPWD and shall be tendered upon request. Termination under this paragraph shall not relieve the vendor of any obligation or liability that has occurred prior to cancellation.

- 28.2. **Termination for Cause/Default:** If the Contractor fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any of the terms or conditions of the Contract, the TPWD may, upon written notice of default to the Contractor, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the Contract.
- 28.3. The rights and remedies of TPWD provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- 28.4. TPWD may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TPWD notifies the Contractor in writing prior to the exercise of such remedy. The Contractor shall remain liable for all covenants and indemnities under the Contract. The Contractor shall be liable for all costs and expenses, including court costs, incurred by TPWD with respect to the enforcement of any of the remedies listed herein.
29. **SURVIVAL OF TERMS:** Termination of the Contract for any reason shall not release the Respondent from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
30. **RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT:** In the event that the Contract is terminated for any reason, or upon its expiration, TPWD shall retain ownership of all associated work products and documentation obtained from the Respondent under the Contract.
31. **CHANGE IN FEDERAL OR STATE REQUIREMENTS:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either TPWD or the Contractor cannot reasonably fulfill the Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under the Contract.
32. **TAXES:** Purchases made for state uses are exempt from Texas State Sales Tax and Federal Excise Tax. An Excise Tax Exemption Certificate will be furnished upon written request to TPWD.
33. **BUY TEXAS:** In accordance with §2155.4441, Gov't Code, the Respondent shall, in performing any services under the Contract, purchase products and materials produced in Texas when they are available at a comparable price and in a comparable period of time to products and materials produced outside Texas.
34. **NOTE TO RESPONDENT:** Any terms and conditions attached to a solicitation will not be considered unless specifically referred to on this solicitation form and may result in disqualification of the response submission. If any respondent takes a 'blanket exception' to the entire solicitation

or does not provide proposed alternative language, the respondent's response may be disqualified from further consideration.

35. **ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS:** As Required by 1 TAC Chapter 213 (Applicable to State Agency and Institution of Higher Education Purchases Only) 1) Effective September 1, 2006 state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. 2) Contractor shall provide DIR with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Contractors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.
36. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:** Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and the Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
37. **SYSTEM FOR AWARD MANAGEMENT (SAM):** Prior to awarding state funds for goods and/or services rendered, the State of Texas will conduct a required search of your firm using the Federal System for Award Management (SAM). This is a Federal government maintained database that records and tracks organizations, either known to or suspected of contributing to terrorist organizations. No state funds may be paid to an individual or firm whose name appears on this list. TPWD reserves the right, in its sole discretion, to deny and/or exclude any individual or firm from an award whose name appears on this list.
38. **FEDERAL DISASTER RELIEF FRAUD:** Under Section 2155.006(b) of the Texas Gov't Code, a state agency may not accept a response or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the response or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Gov't Code, the respondent certifies that the individual or business entity named in this response is not ineligible to receive the specified contract and acknowledges that

any contract resulting from this solicitation may be terminated and payment withheld if this certification is inaccurate.

39. **APPLICABLE LAWS AND VENUE:** The Respondent agrees that the Contract in all respects shall be governed by and construed in accordance with the laws of the State of Texas, except for its provisions regarding conflicts of laws. The Respondent also agrees that the exclusive venue and jurisdiction of any legal action or suit concerning TPWD under this Contract is, and that any such legal action or suit shall be brought, in a court of competent jurisdiction in Travis County, Texas.
40. **APPLICABLE LAWS AND CONFORMING AMENDMENTS:** Contractor must comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TPWD reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TPWD or Contractor's compliance with all applicable State and federal laws, and regulations.
41. **COMPLIANCE WITH LAWS; DEALING WITH PUBLIC SERVANTS:** The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants; (iii) §2155.003, Gov't Code, which prohibits the chief clerk or any other employee of the TPWD from having an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by an agency of the state or accept from any person to whom a contract has been awarded anything of value or a promise, obligation, or contract for future reward or compensation.
- The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract. Except where otherwise expressly required by applicable laws and regulations, TPWD shall not be responsible for monitoring Respondent's compliance with any laws or regulations. If Respondent performs any work knowing or having reason to know that it is contrary to laws or regulations, Respondent shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom.
42. **NO WAIVER:** Nothing in this Contract shall be construed as a waiver of the state's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppels. TPWD does not waive any privileges, rights, defenses, or immunities available to TPWD by entering into this Contract or by its conduct prior to or subsequent to entering into this Contract.
43. **NO LIABILITY UPON TERMINATION:** If this Contract is terminated for any reason, TPWD and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Contractor may be entitled to the remedies provided in Gov't Code, Chapter 2260.
44. **DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES:** Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code, Chapter 17, or allegations of any unfair business practice in any

administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings.

45. **FALSE STATEMENTS; BREACH OF REPRESENTATIONS:** By signature to this Contract, Contractor makes all the representations, warranties, guarantees, certifications and affirmations included in this Contract. If Contractor signed its Bid/Proposal with a false statement or signs this Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Contract, Contractor shall be in default under this Contract and TPWD may terminate or void this Contract for cause and pursue other remedies available to TPWD under this Contract and applicable law.
46. **ACTUAL AND PERCEIVED CONFLICTS:** By submitting a Bid/Proposal, the Respondent represents and warrants that neither it nor its employees and subcontractors have an actual or potential conflict of interest in entering a Contract with TPWD. The Respondent also represents and warrants that entering a Contract with TPWD will not create the appearance of impropriety. In its Bid/Proposal, the Respondent shall disclose any existing or potential conflict of interest that it might have in contracting with TPWD. The TPWD will decide, in its sole discretion, whether an actual or perceived conflict should result in Bid/Proposal disqualification or Contract termination.
47. **CURRENT AND FORMER TPWD EMPLOYEES:** In addition to the disclosures required above, the Respondent shall also disclose any of its personnel who are current or former officers or employees of the TPWD or who are related, within the third degree by consanguinity (as defined by §573.023, Gov't Code) or within the second degree by affinity (as defined by §573.025, Gov't Code), to any current or former officers or employees of the TPWD.

Respondents must comply with all applicable Texas and federal laws and regulations relating to the hiring of former state employees (see e.g., Texas Gov't Code Chapters 572 and 573). Such "revolving door" provisions generally restrict former agency heads from communicating with or appearing before the agency on certain matters for two years after leaving the agency. The revolving door provisions also restrict some former employees from representing clients on matters that the employee participated in during state service or matters that were in the employees' official responsibility. Respondent, by signing this solicitation, certifies that it has complied with all applicable laws and regulations regarding former state employees.

Respondent must identify each employee who works for more than one staffing company at any facility and ensure that the employee's cumulative weekly hours worked at all state facilities through any one staffing company does not exceed 40 hours per week.

48. **INSURANCE AND OTHER SECURITY:** Respondent represents and warrants that it will, within ten (10) business days of executing this agreement, provide TPWD with current certificates of insurance or other proof acceptable to TPWD of the required insurance coverage

The Respondent represents and warrants that it will obtain and maintain for the term of the Contract all insurance coverage required to ensure proper fulfillment of the Contract and its liabilities thereunder. The Respondent shall insure any of its motor vehicles used to fulfill its duties under the Contract and ensure that its subcontractors do the same. Such insurance shall comply with Texas statutory requirements and also cover any cargo being delivered to Customers.

The Respondent represents and warrants that all of the above coverage will be obtained from companies that are licensed in the state of Texas, have an "A" rating from Best, and are authorized to provide the coverage. The Respondent shall furnish proof of insurance upon request of TPWD.

49. **SEVERABILITY:** If any provision of the Contract is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.
50. **HISTORICALLY UNDERUTILIZED BUSINESSES (HUB):** Contractor represents and warrants that it shall comply with the Historically Underutilized Business requirements pursuant to Gov't Code, Chapter 2261.
51. **AMENDMENTS:** Except as provided in Section III, paragraph 8 of this Contract, this Contract may be amended only upon written agreement between TPWD and Contractor; however, any amendment of this Contract that conflicts with the laws of the State of Texas shall be void ab initio. The Contractor shall not be entitled to payment for any additional services, work, or products that are not authorized by a properly executed Contract amendment.
52. **CHANGE MANAGEMENT:** The Respondent agrees that the key personnel assigned to the Contract shall remain available for the entirety of the project throughout the term of the Contract as long as that individual is employed by the Respondent or unless TPWD agrees to a change in the key personnel.
53. **FEDERAL, STATE, AND LOCAL REQUIREMENTS:** Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation insurance coverage. Respondent shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from Respondent's omission or breach of this Section.
54. **INDEMNIFICATION AND LIABILITY:** Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Infringements

- a) Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO

THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

- b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.
- c) If Vendor becomes aware of an actual or potential claim, or Customer provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against Customer, shall), at Vendor's sole option and expense; (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

Taxes/Workers' Compensation/Unemployment Insurance – Including Indemnity

- 1) Vendor agrees and acknowledges that during the existence of this contract, vendor shall be entirely responsible for the liability and payment of vendor's and vendor's employees' taxes of whatever kind, arising out of the performances in this contract. Vendor agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. The customer and/or the state shall not be liable to the vendor, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/ or workers' compensation or any benefit available to a state employee or employee of another governmental entity customer.
- 2) Vendor agrees to indemnify and hold harmless customers, the state of texas and/or their employees, agents, representatives, contractors, and/or assignees from any and all liability, actions, claims, demands, or suits, and all related costs, attorneys' fees, and expenses, relating to tax liability, unemployment insurance and/or workers' compensation in its performance under this contract. Vendor shall be liable to pay all costs of defense including attorneys' fees. The defense shall be coordinated by vendor with the office of the attorney general when texas state agencies are named defendants in any lawsuit and vendor may not agree to any settlement without first obtaining the concurrence from the office of the attorney general. Vendor and the customer agree to furnish timely written notice to each other of any such claim.

55. RESPONDENT LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY: The Respondent shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Respondent and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Respondent shall notify the TPWD Contract Manager in writing of any such damage within one (1) calendar day.

56. FELONY CRIMINAL CONVICTIONS: Contractor represents and warrants that Contractor has not and Contractor's employees have not been convicted of a felony criminal offense, or that, if such a

conviction has occurred, Contractor has fully advised TPWD as to the facts and circumstances surrounding the conviction.

57. **IMMIGRATION:** The Contractor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA) enacted on September 30, 1996.
58. **SUBCONTRACTORS:** Subcontractors providing service under the contract shall meet the same requirements and level of experience as required of the Contractor. No subcontract under the purchase order shall relieve the primary Contractor of responsibility for the service. If the Contractor uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances:
- 58.1. Respondents planning to subcontract all or a portion of the work shall identify the proposed subcontractors.
 - 58.2. Subcontracting shall be at the Contractor's expense.
 - 58.3. TPWD retains the right to check subcontractor's background and make determination to approve or reject the use of submitted subcontractors.
 - 58.4. The Contractor shall be the only contact for TPWD and subcontractors. Respondent shall list a designated point of contact for all TPWD and subcontractor inquiries.
 - 58.5. The Respondent, in subcontracting for any performances specified herein, expressly understands and acknowledges that in entering into such subcontract(s), the TPWD is in no manner liable to any subcontractor(s) of the Respondent. In no event shall this provision relieve the Respondent of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all terms of this solicitation and Contract. The Respondent shall manage all quality and performance, project management, and schedules for subcontractors. The Respondent shall be held solely responsible and accountable for the completion of all work for which the Respondent has subcontracted.
59. **PROTEST PROCEDURES:** Any Actual or prospective respondent who is aggrieved in connection with this solicitation, evaluation, or award of any contract resulting from this solicitation may formally protest as provided in TPWD's rules at TAC, Title 31, Part 2, Chapter 51, Subchapter L, Rule 51.350 located at:
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=31&pt=2&ch=51&rl=350](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=31&pt=2&ch=51&rl=350)
60. **NON-APPROPRIATION OF FUNDS:** Any contract resulting from this solicitation is subject to termination or cancellation, without penalty to TPWD, either in whole or in part, subject to the availability of state funds. TPWD is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If TPWD becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render TPWD's or respondent's delivery or performance under the contract impossible or unnecessary, the contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, TPWD will not be liable to respondent for any damages, which are caused or associated with such termination, or cancellation and TPWD will not be required to give prior notice.

61. **TEXAS PUBLIC INFORMATION ACT:** Information the bidder provides to TPWD in response to this solicitation will be considered public and subject to disclosure under the Texas Public Information Act. However, certain information may be confidential and fall under an exception to disclosure under the Public Information Act such as proprietary information, trade secrets, and certain commercial and financial information where disclosure might cause "*substantial competitive harm to your business*". If the bidder believes that his response to this solicitation contains confidential information in those categories, the bidder must specifically document this at the top or bottom of each page that contains the information the bidder considers confidential. The bidder's documentation must include a statement that confidential information is contained on that page, refer to its exact location on the page, and describe the specific nature of the exception to the Texas Public Information Act that the bidder believes applies to this information, i.e. copyrighted, trade secret, proprietary, financial etc. A general disclaimer that the bidder's response contains confidential information will not be sufficient to meet this requirement. **If such documentation is not provided, TPWD will assume that all information provided in the response to this solicitation is releasable under the Act.**

Contractor is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. Contractor will make such information not excepted from disclosure available in an electronic format that is accessible to the public unless Contractor receives written approval from TPWD to provide information in a different format, and such approval becomes part of this Contract.

62. **CIVIL RIGHTS:** The Respondent agrees that no person shall, on the ground of race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief, be excluded from the participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of, or in connection with, any program or activity funded in whole or in part with funds available under this Contract. The Respondent shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity," and as supplemented by regulations at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity Department of Labor."
63. **CONFLICT OF INTEREST:** Under §2155.003, Gov't Code, a TPWD employee may not have an interest in, or in any manner be connected with a contract or response for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and respondents who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of TPWD or purchasers of other state agencies.
64. **LIMITATION ON AUTHORITY; NO OTHER OBLIGATIONS:** Contractor shall have no authority to act for or on behalf of TPWD or the State of Texas except as expressly provided for in this Contract; no other authority, power or use is granted or implied. Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TPWD.

65. **DRUG-FREE WORKPLACE:** The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
66. **NOTICES:** Any written notices required under this Contract will be by either hand delivery to Contractor's office address specified in the Execution of response, Exhibit A, of this Contract or by U.S. Mail, certified, return receipt requested, to TPWD, Attn: Purchasing, 4200 Smith School Road, Austin, TX 78744. Notice will be effective on receipt by the affected party. Either party may change the designated notice address in this Section by written notification to the other party.
67. **ORDER OF PRECEDENCE:** In the case of conflicts between the contract documents, the following shall control in this order of priority:
- 67.1. Signed Contract/Purchase Order (or Notice of Award)
 - 67.2. Attachments to the Contract/Purchase Order (or Notice of Award)
 - 67.3. The Solicitation (e.g., RFP, IFB)
 - 67.4. Contractor's Response to the Solicitation and Contractor's Best and Final Offer, if applicable
68. **BUSINESS OWNERSHIP:** BIDDER/VENDOR MUST PROVIDE, IN THE SPACE BELOW, THE NAME AND SOCIAL SECURITY NUMBER OF AN INDIVIDUAL OWNER, A SOLE PROPRIETOR AND ALL PARTNERS, SHAREHOLDERS, OR OWNERS WITH AN OWNERSHIP INTEREST OF AT LEAST TWENTY-FIVE (25) PERCENT OF THE BUSINESS ENTITY ENTERING INTO THIS CONTRACT. BIDDERS THAT HAVE PRE-REGISTERED THIS INFORMATION ON THE CPA/TPASS CENTRALIZED MASTER BIDDERS LIST HAVE SATISFIED THIS REQUIREMENT. IF NOT PRE-REGISTERED, COMPLETE THE FOLLOWING:
- DO NOT ENTER "CORPORATION", "PUBLIC CORPORATION", "PUBLICLY TRADED COMPANY" OR OTHER NON-RESPONSIVE ANSWERS. IF NO ONE PERSON CONTROLS 25% OR MORE OF THE ORGANIZATION, ENTER "NONE".
- | | | |
|------------|-----------|---------|
| NAME _____ | SSN _____ | % _____ |
| NAME _____ | SSN _____ | % _____ |
| NAME _____ | SSN _____ | % _____ |
| NAME _____ | SSN _____ | % _____ |
69. **NO ASSIGNMENT BY CONTRACTOR:** The Respondent shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the TPWD.
70. **COMPLIANCE WITH OTHER LAW:** In the execution of this Contract, Contractor shall comply with all applicable federal, state, and local laws, including laws governing labor, equal opportunity, safety, and environmental protection. Contractor shall make itself familiar with and at all times

shall observe and comply with all federal, state, and local laws, ordinances, and regulations which in any manner affect performance under this Contract.

71. **ENVIRONMENTAL PROTECTION:** The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 et seq.) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 et seq.).
72. **U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY SYSTEM:**
- 72.1. By entering into this Contract, the Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:
- All persons employed to perform duties within Texas, during the term of the Contract; and
 - All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America.
- 72.2. The Contractor shall provide, upon request of TPWD, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.
- 72.3. If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.
73. **TEXAS IDENTIFICATION NUMBER:** The Texas Identification Number (TIN) is a unique 11-digit number assigned by the Texas Comptroller of Public Accounts. When a payee first contracts with a state agency, that payee must provide either a federal Employer Identification Number (EIN) or a Social Security number (SSN). The Texas Identification Number (TIN) is based on this number. (Note: If respondent does not have a TIN, or does not know their TIN, they may list their EIN or SSN on the "Texas Identification Number" line of the Vendor Information Block of their RFP, IFB or RFQ response.)

EXHIBIT A
EXECUTION OF PROPOSAL

NOTE: RESPONDENTS SHALL COMPLETE AND RETURN THIS EXHIBIT WITH THEIR PROPOSAL. Failure to do so will result in disqualification of the proposal.

1. By signature hereon, the Respondent certifies that:

- 1.1 All statements and information prepared and submitted in the response to this RFP are current, complete and accurate.
- 1.2 The Respondent has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response. Failure to sign the Execution of Proposal or signing it with a false statement shall void the submitted offer or any resulting contracts.
- 1.3 Neither the Respondent or the firm, corporation, partnership, or institution represented by the Respondent or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the offer made to any competitor or any other person engaged in such line of business. By signing this bid, bidder certifies that if a Texas address is shown as the address of the bidder, bidder qualifies as a Texas Resident Bidder as defined in Texas Administrative Code, Title 34, Part 1, Chapter 20.
- 1.4 Pursuant to Section 2155.004 (a), Government Code, the Respondent has not received compensation for participation in the preparation of the specifications for this RFP.
- 1.5 Under Section 2155.004 (b), Government Code, the Contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- 1.6 Pursuant to Section 231.006 (d), Family Code, re: child support, the respondent certifies that the individual or business entity named in this RFP is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
- 1.7 The Respondent shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of respondent or any agent, employee, sub-respondent, or supplier of respondent in the execution or performance of this contract.
- 1.8 Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.
- 1.9 Respondent certifies that they are in compliance with section 669.003 of the Government Code, relating to contracting with executive head of a State agency. If section 669.003 applies, respondent will complete the following information in order for the RFP to be evaluated:
 - 1.9.1 Name of former executive: _____
 - 1.9.2 Name of state agency: _____
 - 1.9.3 Date of separation from state agency: _____
 - 1.9.4 Position with respondent: _____
 - 1.9.5 Date of employment with respondent: _____
- 1.10 Respondent agrees to comply with Government Code 2155.4441, pertaining to service contract use of products produced in the State of Texas.
- 1.11 Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.
- 1.12 Pursuant to Section 231.006 (c), Family Code, RFP must include names and Social Security Numbers of each person with at least 25% ownership of the business entity submitting the RFP. Attach name & social security numbers for each person. This information must be provided prior to contract award.

- 1.13 Suspension, Debarment, and Terrorism: Bidder certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Bidder is in compliance with the State of Texas statutes and rules relating to procurement and that Bidder is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.
- 1.14 Respondent represents and warrants that the individual signing this Execution of Proposal is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any contract resulting from this proposal.

In the case of a tie between two (2) or more Respondents, the award will be made in accordance with preferences as outlined in TAC, Title 34, Part 1, Chapter 20, Subchapter C, and Section 20.38. If a tie still exists after review of preferences claimed by Respondents, TPWD will draw lots to break the tie.

Check below if preference claimed under TAC, Title 34, Part 1, Chapter 20, Subchapter C, Section 20.38

PREFERENCES

See Section 2.38 of the State of Texas Procurement Manual regarding preferences.

- ☐ Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
- ☐ Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
- ☐ Agricultural products grown in Texas
- ☐ Agricultural products offered by a Texas bidder
- ☐ Services offered by a Texas bidder that is owned by a Texas resident. By signing this bid, bidder certifies that if a Texas address is shown as the address of the bidder, bidder qualifies as a Texas Resident Bidder as defined in Texas Administrative Code, Title 34, Part 1, Chapter 20.
- ☐ Service-disabled veteran
- ☐ Services offered by a Texas bidder that is not owned by a Texas resident
- ☐ Service disabled veteran
- ☐ Texas Vegetation Native to the Region
- ☐ USA produced supplies, materials or equipment
- ☐ Products of persons with mental or physical disabilities
- ☐ Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
- ☐ Energy Efficient Products
- ☐ Rubberized asphalt paving material
- ☐ Recycled motor oil and lubricants
- ☐ Products produced at facilities located on formerly contaminated property
- ☐ Products and services from economically depressed or blighted areas
- ☐ Contractors that meet or exceed air quality standards
- ☐ Recycled or Reused Computer Equipment of Other Manufacturers
- ☐ Foods of Higher Nutritional Value

RESPONDENT (COMPANY/FIRM): _____

SIGNATURE: _____

NAME (TYPED/PRINTED): _____

TITLE: _____ DATE: _____

STREET: _____

CITY/STATE/ZIP: _____

TELEPHONE AND FAX/SCMILE NO.: _____

TEXAS IDENTIFICATION NUMBER SYSTEM (TINS): _____

EMAIL ADDRESS: _____

EXHIBIT B
HUB SUBCONTRACTING PLAN

Attention:

1. The following HSP documents are attached as separate documents:
 - Exhibit B - Part 1: HUB Subcontracting Opportunities
 - Exhibit B - Part 2: HSP Quick Check List, and HUB Subcontracting Plan
 - Exhibit B - Part 3: List of HUB vendors
2. Respondents shall comply with the HSP requirements, and complete and return the HUB Subcontracting Forms with their proposal. ***Failure to do so will result in disqualification of the proposal.***
3. Respondents are highly encouraged to contact TPWD HUB Administration at 512-389-4784 or hub@tpwd.texas.gov for assistance with completing the HSP forms, obtaining HUB lists if web access is not possible, and/or further explanation of the TPWD HUB program.

**EXHIBIT C
PRICE SHEET**

Contract Term:

Date of Award through December 15, 2016

40% Payment will be made upon final approval of cleaning and hull modifications; 50% payment will be made upon successful reefing and a 10% retainer will be paid when ship is verified as being at proper location in up-right position and side-scan survey is completed and submitted to TPWD.

Obtain and / or purchase a Ship as Described in Item 10, *Description of Ship* above.

Clean Ship of hazardous materials and debris and perform hull modifications as necessary as stated in Item 12, *Cleanup and Modification of Ship*.

Receive authorization (ship is seaworthy) from USCG to tow Ship to reef site for reefing. (Includes certification from USCG that Ship is free of hydrocarbons. TPWD will perform all other inspections).

Reef Ship at designated reef site in UP-RIGHT position with a list of no greater than 25 degrees. (Contractor to pull Ship UP-RIGHT if necessary).

All deliverables are due at the Owner's office not later than 5:00 p.m. **December 15, 2016.**

LUMP SUM PRICE:

\$ _____
DOLLARS

**EXHIBIT D
EQUIPMENT LIST**

Respondent Name: _____

Describe all equipment to be specifically used **for this project** in the space provided below. Make sure to include dimensions/capacities of equipment, make, model, horsepower and intended use by bid item. For purposes of this bid evaluation TPWD assumes that the respondent's equipment list, (submitted below) includes ALL of the equipment that the respondent is dedicating to this project and has considered in his bid.

EQUIPMENT TYPE	MAKE & MODEL	HORSE POWER	DIMENSION OR CAPACITY	# OF UNITS	LEASE (L) OR OWN (O)

EXHIBIT E
PAST PROJECTS WITH CORRESPONDING REFERENCES

Respondent Name: _____

Name of Client			
Address, City, State			
Contact/Title			
Phone			
Email Address (if available)			
Project Title		Contract Amount	
Project Start Date		Project End Date	
Project Description			
Name of Client			
Address, City, State			
Contact/Title			
Phone			
Email Address (if available)			
Project Title		Contract Amount	
Project Start Date		Project End Date	
Project Description			
Name of Client			
Address, City, State			
Contact/Title			
Phone			
Email Address (if available)			
Project Title		Contract Amount	
Project Start Date		Project End Date	
Project Description			

EXHIBIT F
TECHNICAL PROPOSAL

Respondent to submit the following technical proposal information tabbed Exhibit E. ***Failure to submit this documentation may result in the proposal being considered non-responsive.***

1. Respondent shall submit, as part of their proposal, a **sink plan** with or without the use of explosives that details how respondent will reef the ship in an up-right position on ocean bottom.
2. Respondent shall also submit a **contingency plan** of how respondent will up-right the ship or pull the ship into position so that any list is no more than twenty five (25) degrees.

Evaluation will be based on the Respondent's ability to provide services they propose to provide as indicated in Exhibit C.

**EXHIBIT G
PERFORMANCE BOND**

TEXAS PARKS AND WILDLIFE

STATE OF TEXAS

COUNTY OF _____

PERFORMANCE BOND

Contract Number _____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as **PRINCIPAL**,

and _____, as **SURETY(S)**,

Surety Address: _____

Surety Phone: _____ **Surety Fax:** _____

are hereby held and firmly bound unto the State of Texas in the penal sum of:

_____ Dollars (\$ _____)
for the payment, whereof, the said **PRINCIPAL** and **SURETY(S)** bind themselves, their heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas the **PRINCIPAL** entered into a certain contract dated _____, 20____, hereto attached, and made a part hereof, with the State of Texas, acting by and through the Texas Parks and Wildlife Department, to commence and complete certain public works described as:

NOW THEREFORE, the conditions of this obligation are such that, if the **PRINCIPAL** shall faithfully perform the contract in accordance with the plans, specifications, and contract documents, and as provided in TITLE 10, TEXAS GOVERNMENT CODE, CHAPTER 2253 shall fully indemnify and save harmless the State of Texas from all cost and damage which the State of Texas may suffer by reason of the **PRINCIPAL'S** default or failure to do so and shall fully reimburse and repay the State of Texas all outlay and expense which the State of Texas may incur in making good any such default, then obligation shall be null and void, otherwise it shall remain in full force and effect.

Provided further, that if any legal action be filed upon this bond, venue shall lie in Travis County, Texas and that the said surety(s) for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed thereunder, or the Specifications accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alternation or addition, to the items of the Contract or to the work or to the Specifications.

In the event **PRINCIPAL** is in default under the contract as defined herein, **SURETY(S)** will within fifteen (15) days of determination of such default take over and assume completion of said contract and become entitled to the payment of the balance of the contract price.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this _____ day of _____, 20____, the name and corporation seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

PRINCIPAL:

SURETY:

BY _____

BY _____

EXHIBIT H
PAYMENT BOND

TEXAS PARKS AND WILDLIFE

PAYMENT BOND

STATE OF TEXAS

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as PRINCIPAL,
and _____, as SURETY(S),

Surety Address: _____

Surety Phone: _____ Surety Fax: _____

are hereby held and firmly bound unto the State of Texas in the penal sum of: _____ Dollars (\$_____) for the payment, whereof, the said **PRINCIPAL** and **SURETY(S)** bind themselves, their heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas the **PRINCIPAL** entered into a certain contract dated _____, 20__, hereto attached, and made a part hereof, with the State of Texas, acting by and through the Texas Parks and Wildlife Department, to commence and complete certain public works described as:

Project Name, Facility Name, City, County, Texas

NOW THEREFORE, the conditions of this obligation are such that, if the **PRINCIPAL** shall promptly make payment to all claimants as defined in TITLE 10, *TEXAS GOVERNMENT CODE*, CHAPTER 2253, as amended, supplying labor and materials in the prosecution of the work provided for in said contract and any and all duly authorized changes to said contract that may hereafter be made, notice of such changes to the **SURETY(S)** being hereby waived, then, this obligation shall be null and void, otherwise it shall remain in full force and effect.

This bond is made and entered into solely for the protection of all claimants supplying labor and materials in the prosecution of the work provided for in said contract, and all such claimants shall have a direct right to action under the bond as provided in TITLE 10, *TEXAS GOVERNMENT CODE*, CHAPTER 2253, as amended.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this ____ day of _____, 20__, the name and corporation seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

PRINCIPAL

BY _____

SURETY

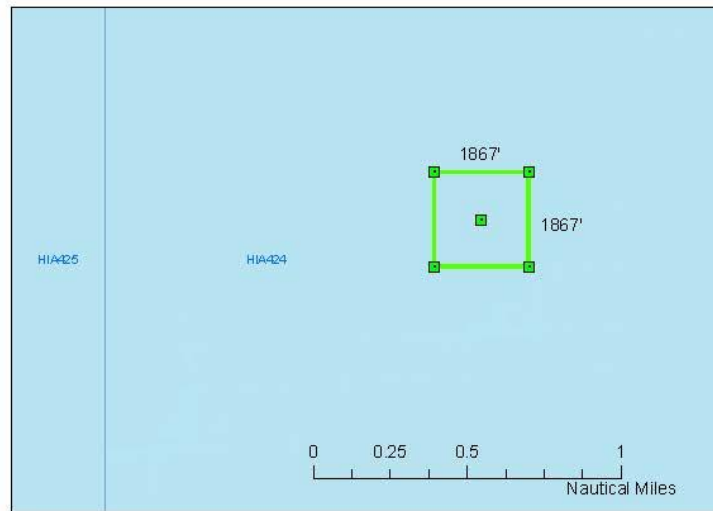
BY _____

Proposed Ships-to-Reef Location - HI-A-424 - 80 acres



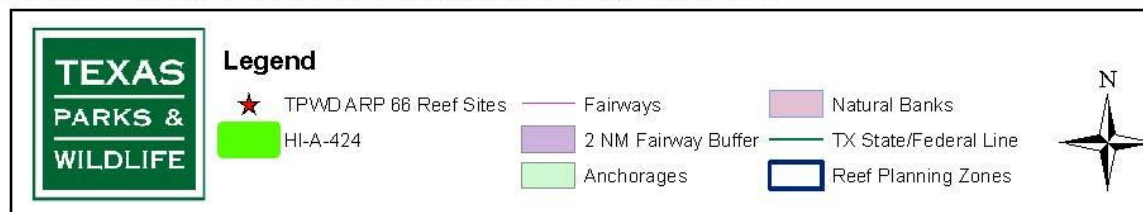
Nearest Point to Point Distances:

Distance Offshore: 57.6 Nautical Miles
 Safety Fairways: 5.89 Nautical Miles
 Oil and Gas Pipelines: 2.95 Nautical Miles
 State and Federal Boundary: 47.6 Nautical Miles
 Obstruction or Platforms: 9.69 Nautical Miles



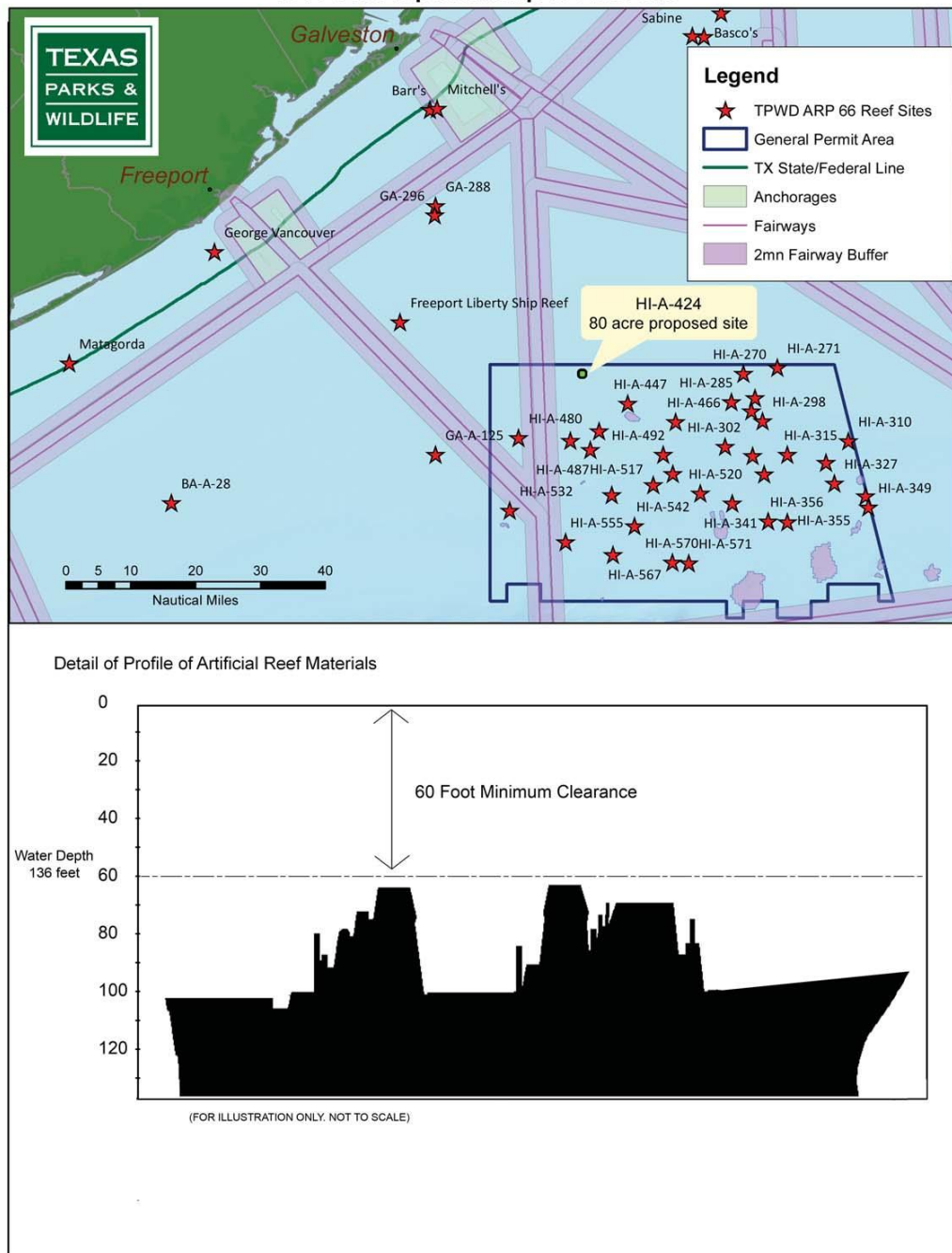
	NAD 83 Latitude	NAD 83 Longitude	NAD 27 Latitude	NAD 27 Longitude	NAD 83 SPSC X	NAD 83 SPSC Y	NAD 27 SPSC X	NAD 27 SPSC Y
Center	28°26' 38.43" N	94°17' 6.16" W	28°26' 37.50" N	94°17' 5.52" W	3483339.947	13375925.997	3514930.211	252492.894
NW	28°26' 48.04" N	94°17' 16.18" W	28°26' 47.11" N	94°17' 15.54" W	3482406.537	13376869.407	3513996.818	253426.287
NE	28°26' 47.29" N	94°16' 55.29" W	28°26' 46.36" N	94°16' 54.65" W	3484273.357	13376869.407	3515863.611	253426.298
SE	28°26' 28.83" N	94°16' 55.13" W	28°26' 27.89" N	94°16' 55.49" W	3484273.357	13374992.587	3515863.604	251559.501
SW	28°26' 29.57" N	94°17' 17.03" W	28°26' 28.64" N	94°17' 16.39" W	3482406.537	13374992.587	3513996.811	251559.490

Geographic Coordinates (Degrees Minutes Seconds) and State Plane Texas South Central FIPS_4204 (feet) in NAD27 and NAD83.



Attachment 1. Reef Location and Deployment Map (80 ac High Island Ship Reef HI-A-424)

**Texas Parks and Wildlife Department - Artificial Reef Program
HI-A-424 Proposed Ship-to-Reef Site**



Attachment 2. Water profile of High Island Ship Reef (HI-A-424)